

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

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7   IN RE:

8   NATIONAL PRESCRIPTION OPIATE       MDL NO. 2804  
LITIGATION

9

      This document relates to:           Case No. 17-MD-2804

10

      All cases                           Hon. Dan A. Polster

11       \*\*\*\*\*

12                   HIGHLY CONFIDENTIAL - SUBJECT  
13                   TO FURTHER CONFIDENTIALITY REVIEW

14                   VIDEOTAPED DEPOSITION OF:

15                   RONALD LINK

16                   MOTLEY RICE

17                   55 Cedar Street

18                   Providence, Rhode Island

19                   December 11, 2018       9:09 a.m.

20

21

22                   Darlene M. Coppola

23                   Registered Merit Reporter

24                   Certified Realtime Reporter

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 Representing the Plaintiffs:</p> <p>3 LEVIN PAPANTONIO THOMAS MITCHELL</p> <p>4 RAFFERTY PROCTOR PA</p> <p>5 316 Baylen Street</p> <p>6 Pensacola, FL 32502</p> <p>7 BY: WILLIAM BAKER, ESQUIRE</p> <p>8 STEPHANIE HACKMAN, PARALEGAL</p> <p>9 T 850.485.4160</p> <p>10</p> <p>11 Representing the Plaintiffs:</p> <p>12 GARSON JOHNSON, LLC</p> <p>13 101 West Prospect Avenue</p> <p>14 Midland Building</p> <p>15 Suite 1600</p> <p>16 Cleveland, OH 44115</p> <p>17 BY: JAMES A. DEROCHE, ESQUIRE</p> <p>18 PATTI CARDINAL, ESQUIRE</p> <p>19 (Via telephone)</p> <p>20 T 216.296.9330</p> <p>21 E Jderoche@weismanlaw.com</p> <p>22</p> <p>23 (Continued on the next page)</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (Continued):</p> <p>2 Representing the Defendant CVS Indiana, CVS RX</p> <p>3 Services and the Witness:</p> <p>4 ZUCKERMAN SPAEDER LLP</p> <p>5 1800 M Street NW</p> <p>6 Suite 1000</p> <p>7 Washington, DC 20036</p> <p>8 BY GRAEME W. BUSH, ESQUIRE</p> <p>9 T 202.778.1800</p> <p>10 E gbush@zuckerman.com</p> <p>11</p> <p>12 Representing the Defendants Endo Health</p> <p>13 Solutions Inc., Endo Pharmaceuticals Inc.,</p> <p>14 Par Pharmaceutical, Inc.; Par Pharmaceutical</p> <p>15 Companies, Inc. (FKA Par Pharmaceutical</p> <p>16 Holdings, Inc.):</p> <p>17 (Via telephone and video stream)</p> <p>18 ARNOLD &amp; PORTER KAYE SCHOLER, LLP</p> <p>19 777 South Figueroa Street</p> <p>20 44th Floor</p> <p>21 Los Angeles, CA 90017-5844</p> <p>22 BY: TIFFANY IKEDA, ESQUIRE</p> <p>23 T 213.243.4238</p> <p>24 E tiffany.ikeda@arnoldporter.com</p>
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Page 6	Page 8
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Page 7	Page 9
<p>1 Appearances (Continued):</p> <p>2</p> <p>3 Representing the Defendant AmerisourceBergen:</p> <p>4 (Via video stream)</p> <p>5 JACKSON KELLY PLLC</p> <p>6 500 Lee Street East</p> <p>7 Charleston, WV 25301</p> <p>8 BY: GRETCHEN CALLAS, ESQUIRE</p> <p>9 T 304.340.1000</p> <p>10 E gcallas@jacksonkelly.com</p> <p>11</p> <p>12</p> <p>13 Also Present:</p> <p>14 Gina Veldman, Trial Services</p> <p>15 Robert Martignetti, CLVS</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 INDEX</p> <p>2 EXHIBITS</p> <p>3 CVS-LINK Description Page</p> <p>4 No. 50 July 1, 2009 Wholesale 65</p> <p>5 Supply Agreement, CVS</p> <p>6 000030817 through</p> <p>7 30891</p> <p>8 No. 51 January 1, 2004, 67</p> <p>9 Wholesale Supply</p> <p>10 Agreement, CVS</p> <p>11 000030892 and 30995</p> <p>12 No. 102 E-mail, CVS 000091508 73</p> <p>13 through 1518</p> <p>14 No. 58 SOP, Bates CVS 34375 83</p> <p>15 through 34378</p> <p>16 No. 12 SOM Program, CVS 89</p> <p>17 000002188 and CVS</p> <p>18 000034375 through 378</p> <p>19 No. 89 CVS SOM, May 2014, CVS 93</p> <p>20 000081680 through 1681</p> <p>21 No. 120 E-mail, CVS 000076135 95</p> <p>22 No. 87 SOM, January 16, 2014, 95</p> <p>23 CVS 000078029 through</p> <p>24 8031</p> <p>No. 104 E-mail, CVS 0000103329 99</p> <p>No. 18 E-mail, CVS 112</p> <p>00007525204 through</p> <p>25259</p> <p>No. 48 CVS Distribution 116</p> <p>Center Policy, CVS</p> <p>000024877 through</p> <p>24941</p>

Page 10			Page 12		
1	INDEX		1	INDEX	
2	EXHIBITS		2	EXHIBITS	
3	CVS-LINK Description	Page	3	CVS-LINK Description	Page
4	No. 57 E-mail, CVS 000034234 through 234	120	4	No. 85 E-mail, CVS 000076114 through 117	264
5			5		
6	No. 94 E-mail, CVS 000087889 and 890	123	6		
7	No. 98 E-mail, CVS 000089188	123	7	No. 108 CVS DEA Visit 8/5 to 8/8/2013, CVS 000008389 through 8395	283
8	No. 70 E-mail, CVS 000057751 through 754	124	8		
9			9	No. 68 E-mail, CVS 000057736 through 738	286
10	No. 97 E-mail, CVS 000088956 with Attachment, CVS 000088957 through 9025	129	10	No. 40B E-mail, CS 000017250, Nine Pages	305
11			11		
12	No. 81 E-mail, CVS 000075299 with Attachment, CVS 000075300 through 75312	132	12	No. 111 E-mail, CVS 000099706 through 709	308
13			13	No. 105 SOM Risk Analysis, CVS 000103343	322
14	No. 36 E-mail, CVS 000012286	146	14		
15	No. 67 E-mail, CVS 000055834	149	15	No. 35 Memorandum, CVS 000010542 and 543	333
16	No. 90 E-mail, CVS 000083367 with Attachment, Suspicious Order Monitoring for PSE/Control Drugs	152	16	No. 221 E-mail, CVS 000103859 and 3867	337
17			17		
18	No. 71 E-mail, CVS 000057759 and 55834	155	18	No. 222 CVS 3322 - Brookpark Rd., Cleveland, OH, Orders of HCPs	342
19			19		
20	No. 43 E-mail, CVS 0000000022040 through 2053	157	20	No. 223 Brookpark RD CVS Orders Places to IN DC	345
21			21	No. 201 Hydrocodone Shipments: CVS Pharmacy No. 3322	353
22			22		
23	No. 106 E-mail, CVS 000029867 through 870	166	23	No. 213 E-mail, CVS 000106598 through 601	357
24			24		
Page 11			Page 13		
1	INDEX		1	THE VIDEOGRAPHER: We are now on	
2	EXHIBITS		2	the record. My name is Robert Martignetti.	
3	CVS-LINK Description	Page	3	I'm a videographer for Golkow Litigation	
4	No. 107 E-mail, CVS 000022230 and 231	171	4	Services. Today's date is December 11, 2018,	
5			5	and the time is 9:09 a.m.	
6	No. 34 Notes, CVS 000010529 through 532	187	6	This video deposition is being held in	
7	No. 103 E-mail dated May 15, 2014	189	7	Providence, Rhode Island In Re: National	
8			8	Prescription Opiate Litigation. The deponent	
9	No. 119 Suspicious Order Monitoring Training, CVS 000106514 through 6561	198	9	is Ron Link. Counsel will be noted on the	
10			10	stenographic record.	
11	No. 95 E-mail, CVS 000088523, Six Pages	202	11	The court reporter is Darlene Coppola	
12			12	and will now swear in the witness.	
13	No. 55 Business Idea Description, CVS 000034175 through 177	217	13		
14			14	RONALD LINK,	
15	No. 82 E-mail dated October 12, 2010	222	15	witness, having first been	
16	No. 83 E-mail, CVS 000075564 and 542	226	16	satisfactorily identified and duly sworn,	
17			17	testifies and states as follows:	
18	No. 92 E-mail, CVS 0000/83064 with Attachment, Five Pages	232	18		
19			19	DIRECT EXAMINATION	
20	No. 53 E-mail, CVS 000033579 through 581	248	20	BY MR. BAKER:	
21	No. 62 E-mail, CVS 000055298 through 302	255	21	Q. Your name is Ronald Link?	
22			22	A. Yes, it is.	
23	No. 54 E-mail, CVS 000034168 through 171	258	23	Q. Could you tell us the date of today?	
24			24	A. December 11th.	

<p style="text-align: right;">Page 14</p> <p>1 Q. Could you tell us what day of the week  2 it is?  3 A. It is -- gee, Tuesday.  4 Q. Okay. Those were direct questions.  5 Those were direct answers. And that's what  6 I'm here to do, is to ask you direct questions  7 and get direct answers. The reason I say that  8 is because during the deposition, oftentimes  9 witnesses will take off in a direction of ten  10 or twelve sentences to answer a really direct  11 question that calls for a really direct  12 answer.  13 So, for example, I asked you what day  14 of the week it was and you gave me a day. I  15 asked you what date it was, you gave me a  16 date.  17 So as we go through this deposition  18 and I ask you direct questions that have  19 keywords, like dates --  20 A. Yeah.  21 Q. -- and days and times, that's what I'm  22 looking for.  23 Fair enough?  24 A. Yeah.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Distribution center.  2 Q. When we say SOM, we're talking about  3 suspicious order monitoring, correct?  4 A. Correct.  5 Q. When we talk about SOP, we're talking  6 about standards of procedure; is that right?  7 A. Correct.  8 Q. Standard operating procedures?  9 A. Standard operating procedures.  10 Q. When we talk about P&amp;P, we're talking  11 about policy and procedure, correct?  12 A. Correct.  13 Q. So when we say an SOM, P&amp;P, all those  14 acronyms, you understand what we're talking  15 about, correct?  16 A. Correct.  17 Q. So go ahead and tell me from 1994  18 until when, you were what?  19 A. 1994 until I think it was 2007, I was  20 vice president of logistics. And then from  21 2007 through 2017, I was senior VP of  22 logistics.  23 Q. Vice president of logistics would be  24 what in relation to the hierarchy of logistics</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. So you are what with CVS?  2 A. I am no longer employed with CVS.  3 Q. When were you employed with CVS?  4 A. I was employed until this past  5 December 2017.  6 Q. You were employed from when to when?  7 A. 1994 to 2017.  8 Q. During the period of 1994 through  9 2017, what positions did you hold and on what  10 dates did you hold those positions?  11 A. First three years, '94 to '97, I was  12 the director of operations for the Lumberton  13 DC.  14 Q. When you say DC, that's an acronym for  15 distribution center?  16 A. Distribution center.  17 Q. You understand that a jury will be  18 hearing what your testimony is today. So when  19 you use acronyms, you have to speak up and  20 tell me what those acronyms are. Correct?  21 A. Correct.  22 Q. So when we say DC throughout this  23 deposition, you're talking about distribution  24 center?</p>	<p style="text-align: right;">Page 17</p> <p>1 at CVS?  2 A. I reported into a senior vice  3 president of logistics. So it would be --  4 Q. What senior -- I'm sorry. Go ahead.  5 A. Yeah, so I -- I would probably -- I  6 would be viewed as the number two person, I  7 guess.  8 Q. And then from 2007 to 2017, you were  9 the number one person with respect to  10 logistics at CVS; is that correct?  11 A. That's correct.  12 Q. There are multiple different CVS names  13 of corporations.  14 Which CVS did you work for from 2007  15 through 2017?  16 A. The CVS Pharmacy.  17 Q. CVS Pharmacy is located where?  18 A. Woonsocket, Rhode Island.  19 Q. That's where the corporate offices  20 are, correct?  21 A. Correct.  22 Q. And the distribution centers that you  23 were in charge of as the number one person  24 from 2007 through 2017, that's where the CVS</p>

<p style="text-align: right;">Page 18</p> <p>1 suspicious order monitoring program was run 2 for narcotics; is that correct? 3 MR. BUSH: Objection. 4 BY MR. BAKER: 5 Q. Is that right? 6 Let me rephrase the question. 7 Did the logistics department that you 8 were head of from 2007 through 2017 own the 9 suspicious order monitoring program? 10 A. Not -- not that entire period of time. 11 Q. During what period of time did 12 logistics own that program? 13 A. We got directly involved with that 14 around 2012, I believe the date was. 15 Q. Let me show you what's marked as 16 exhibit -- let me show you what's marked as 17 Exhibit 36A. 18 19 (Exhibit No. 36A marked for 20 identification.) 21 22 BY MR. BAKER: 23 Q. This is an e-mail from Mr. Mark 24 Nicastro to you dated 8/18/13. And in the</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Loss prevention. 2 Q. Where is loss prevention located? 3 A. In Woonsocket, Rhode Island. 4 Q. Who was the head of loss prevention 5 during the period of time that the SOM process 6 was run out of Woonsocket? 7 A. Judy Hughes. 8 Q. Where is Judy Hughes today? 9 A. I believe she's still in Woonsocket. 10 Q. When you were vice president of 11 logistics before you became senior vice 12 president, were you in contact with Judy 13 Hughes regarding the SOM program or not? 14 A. I don't recall. 15 Q. Sir? 16 A. I do not recall. 17 Q. During the period of time that you 18 were senior vice president from 2007 through 19 2017 of logistics, were you in touch with Amy 20 Propatier, the DEA compliance coordinator for 21 CVS? 22 A. Not directly. 23 Q. Did you even know that she held the 24 position of DEA's compliance coordinator?</p>
<p style="text-align: right;">Page 19</p> <p>1 last paragraph it says, "I know Tom and Craig 2 want the process in Woonsocket, and if they're 3 going to own it, staff it, and manage it, 4 fine. My understanding is logistics owns this 5 process, so either Dan or I have it." 6 MR. BUSH: Dean, I think you 7 meant. 8 BY MR. BAKER: 9 Q. "Dean or I have it." 10 Did I state that correct? 11 A. Correct. 12 Q. So what that means is that at least we 13 know that in 2015 that logistics owned the SOM 14 process; is that correct? 15 A. That's correct. 16 Q. And you say that they started owning 17 it -- the logistics department started owning 18 it when? 19 A. The transition, I believe, was roughly 20 the year prior. 21 Q. In 2012? 22 A. 2012. 23 Q. Which department owned the SOM process 24 before it was transferred to logistics?</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes, I did. 2 Q. Did you ever have any communication 3 with her? 4 A. Not directly, no. 5 Q. During the period of time that the 6 suspicious order monitoring program was owned 7 by the logistics department at CVS from 2012 8 through 2014, when you were employed there, 9 you had no communication with the DEA 10 compliance coordinator, which at that time was 11 Amy Propatier? 12 A. Not directly. 13 Q. What about indirectly? 14 A. I don't recall. I don't recall. 15 Q. So you don't recall any communication 16 with the DEA compliance coordinator when you 17 were the senior vice president of logistics at 18 CVS when the logistics department owned the 19 suspicious order monitoring program, correct? 20 A. Correct. 21 Q. Let me show you Document No. 10A. 22 This is an e-mail. 23 24</p>



Page 22	Page 24
<p>1 (Exhibit No. 10A marked for 2 identification.)</p> <p>3</p> <p>4 BY MR. BAKER:</p> <p>5 Q. This is an e-mail from Dean Vanelli to 6 you, Ronald Link, dated 1/9/2014.</p> <p>7 At the bottom it says, "Suspicious 8 order monitoring program," it says, "assumed 9 ownership of suspicious order monitoring 10 program."</p> <p>11 We know from your testimony at least 12 that the suspicious order monitoring program 13 was owned by logistics in 2012, correct?</p> <p>14 A. Correct.</p> <p>15 Q. So this is not accurate that the 16 assumption of the ownership was in 2014. The 17 assumption of the ownership was in 2012. 18 Correct?</p> <p>19 MR. BUSH: Objection.</p> <p>20 BY MR. BAKER:</p> <p>21 Q. Does that make sense?</p> <p>22 A. (Witness reviews document.)</p> <p>23 Q. Is that yes or no?</p> <p>24 A. I'm just not clear on the dates right</p>	<p>1 Q. And you never really knew that she was 2 DEA compliance coordinator, did you?</p> <p>3 MR. BUSH: Objection.</p> <p>4 A. I knew she was the DEA compliance 5 coordinator.</p> <p>6 BY MR. BAKER:</p> <p>7 Q. You never really knew what she did or 8 didn't do with that title, correct?</p> <p>9 A. I did not interact with her.</p> <p>10 Q. Let me direct you to Exhibit No. 25, 11 please. This is a list of CVS stores in Ohio. 12 Are these CVS stores ones that were 13 served by CVS distribution centers?</p> <p>14</p> <p>15 (Exhibit No. 25 marked for 16 identification.)</p> <p>17</p> <p>18 A. I -- I believe so. I mean, I have -- 19 I don't -- I'm not sure. I mean, from looking 20 at the addresses, I'm not sure. I really 21 don't know.</p> <p>22 BY MR. BAKER:</p> <p>23 Q. Well, let me ask you something. Would 24 there be anybody, other than CVS distribution</p>
Page 23	Page 25
<p>1 now. I apologize.</p> <p>2 Q. We'll move on.</p> <p>3 But from your recollection, it was in 4 2012 that logistics started to own the SOM 5 program; is that correct?</p> <p>6 A. I believe that was the date where the 7 transition took place.</p> <p>8 Q. Would anybody be higher up in 9 logistics than you during the period of time 10 that the SOM program was owned by logistics 11 from 2012 to 2014?</p> <p>12 A. I was the senior person in logistics.</p> <p>13 Q. So the answer is nobody would have 14 been higher up than you?</p> <p>15 A. No.</p> <p>16 Q. Correct?</p> <p>17 A. No.</p> <p>18 Q. As the person the highest up in 19 logistics in charge of SOM, the suspicious 20 order monitoring program -- I want to make it 21 clear -- you never once remember communicating 22 with the DEA compliance coordinator, which was 23 Amy Propatier, correct?</p> <p>24 A. Correct.</p>	<p>1 centers, that would have primarily distributed 2 narcotics to CVS pharmacies during the period 3 of time that you were employed at CVS?</p> <p>4 A. Wholesalers would have been.</p> <p>5 Q. How about with respect to hydrocodone, 6 which were class 3 narcotics?</p> <p>7 A. At that time, it was CVS.</p> <p>8 Q. CVS had distribution centers 9 throughout the United States that you managed, 10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. There were 19 total distribution 13 centers; is that correct?</p> <p>14 A. Currently.</p> <p>15 Q. And during the period of time that you 16 managed those distribution centers, those 17 distribution centers, at least some of them, 18 had class 3 narcotics licenses to distribute 19 narcotics, correct?</p> <p>20 A. That is correct.</p> <p>21 Q. Did all of them, or did just some of 22 them?</p> <p>23 A. They all had class 3.</p> <p>24 Q. And class 3 narcotics, up until</p>

Page 26

1 November -- excuse me -- October 6 of 2014,  
 2 included hydrocodone and hydrocodone  
 3 combination products; is that correct?  
 4 A. Correct.  
 5 Q. Class 2 products included OxyContin,  
 6 oxycodone, and those related products; is that  
 7 correct?  
 8 A. Correct.  
 9 Q. So the class 2 narcotic products were  
 10 supplied to CVS pharmacies throughout the  
 11 United States by outside vendors, correct?  
 12 A. Correct.  
 13 Q. And those outside vendors included  
 14 people like McKesson, correct?  
 15 A. Correct.  
 16 Q. And it included people like Cardinal,  
 17 correct?  
 18 A. Correct.  
 19 Q. It included people like Mallinckrodt;  
 20 is that correct?  
 21 A. I am not aware of that.  
 22 Q. You're not aware?  
 23 A. No.  
 24 Q. We'll get into those documents in just

Page 27

1 a few moments.  
 2 A. Yes, yes.  
 3 Q. So the class 3 narcotics, which would  
 4 have been hydrocodone combination products,  
 5 those were purchased from whom by the  
 6 distribution centers to be stored in the  
 7 distribution centers? Who were they purchased  
 8 from?  
 9 A. The purchasing department within CVS.  
 10 Q. Where would they purchase them from?  
 11 A. From the manufacturers, I believe.  
 12 Q. So from various outside vendors,  
 13 correct?  
 14 A. Yes.  
 15 Q. And then once they were stored in CVS  
 16 distribution centers throughout the United  
 17 States, at some point there were orders made  
 18 by each pharmacy throughout the United States  
 19 to those distribution centers for those  
 20 narcotics to be distributed and supplied to  
 21 those -- sent to those pharmacies, correct?  
 22 A. Correct.  
 23 Q. And those pharmacies numbered what  
 24 during the period of time that you were there,

Page 28

1 ranging from when you -- when you started  
 2 until the time that you quit?  
 3 A. Could you clarify the question?  
 4 Q. Okay. You started working -- well,  
 5 let's cover the period of time from 2006 until  
 6 2014.  
 7 A. Okay.  
 8 Q. How many CVS pharmacies were there,  
 9 approximately, in 2006 that your company  
 10 distributed to and then how many did that end  
 11 up being in 2014?  
 12 A. I don't recall the exact number in  
 13 2006.  
 14 Q. Could you give us the range?  
 15 Approximately 7,000?  
 16 A. Yeah. I was going to say maybe 6,000  
 17 stores, I would say.  
 18 Q. And then in 2014, that was up to over  
 19 9,700; is that correct?  
 20 A. I believe it's about that number,  
 21 yeah.  
 22 Q. So during the period of time that you  
 23 were the senior vice president of logistics,  
 24 from 2007 until 2014, we're talking about

Page 29

1 between 18 and 19 distribution centers at that  
 2 time, correct?  
 3 A. We did not have 19 distribution  
 4 centers, but we had -- I think we had 17  
 5 distribution centers.  
 6 Q. Well, at some point, it bumped up to  
 7 19, correct?  
 8 A. Correct.  
 9 Q. Kansas City was the last one that you  
 10 opened?  
 11 A. Recently.  
 12 Q. Last year, correct?  
 13 A. Correct.  
 14 Q. And during this period of time, each  
 15 one of those distribution centers had a  
 16 process through which the pharmacies  
 17 throughout the United States that were CVS  
 18 pharmacies would order their narcotics, their  
 19 class 3 narcotics, the hydrocodones and  
 20 hydrocodone combination products, from CVS  
 21 distribution centers, correct?  
 22 A. Could you ask the question again?  
 23 Q. During the period of time from 2007 to  
 24 2014 that you were senior vice president of



Page 30	Page 32
<p>1 logistics --</p> <p>2 A. Right.</p> <p>3 Q. -- in charge of the suspicious order</p> <p>4 monitoring program --</p> <p>5 A. Right.</p> <p>6 Q. -- at CVS --</p> <p>7 A. Right.</p> <p>8 MR. BUSH: Objection. Go ahead.</p> <p>9 MR. BAKER: What's the</p> <p>10 objection?</p> <p>11 MR. BUSH: I don't think that's</p> <p>12 what he said. He said he was in charge of the</p> <p>13 suspicious order monitoring program.</p> <p>14 BY MR. BAKER:</p> <p>15 Q. When were you -- when were you senior</p> <p>16 vice president of logistics at CVS?</p> <p>17 MR. BUSH: That's not what I'm</p> <p>18 saying. But...</p> <p>19 BY MR. BAKER:</p> <p>20 Q. When were you senior vice president of</p> <p>21 logistics at CVS?</p> <p>22 A. At 2007 through 2017.</p> <p>23 Q. Okay. During the period of time that</p> <p>24 you were senior vice president of logistics at</p>	<p>1 transition period where CVS did not carry, you</p> <p>2 know...</p> <p>3 Q. Class 3?</p> <p>4 A. Class -- class, you know...</p> <p>5 Q. So let's go from --</p> <p>6 MR. BUSH: Can I -- excuse me.</p> <p>7 Can I ask both of you to make sure that you</p> <p>8 each let the other finish, because I think</p> <p>9 it's -- you're both talking over each other.</p> <p>10 MR. BAKER: No problem.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. And if you think I'm overstepping you</p> <p>13 in your answer, hold your hand up and I'll let</p> <p>14 you finish.</p> <p>15 A. Yeah.</p> <p>16 Q. Fair enough?</p> <p>17 A. Yeah.</p> <p>18 Q. So from 2007 to 2014 when you were</p> <p>19 senior vice president of logistics, there</p> <p>20 was -- during that period of time from 2007</p> <p>21 through October 6 of 2014, hydrocodone</p> <p>22 combination products were considered</p> <p>23 Schedule III narcotics, correct?</p> <p>24 A. Correct.</p>
Page 31	Page 33
<p>1 CVS, did CVS pharmacies order primarily their</p> <p>2 hydrocodone combination products and class 3</p> <p>3 narcotics from CVS distribution centers?</p> <p>4 A. Primarily, I would say no.</p> <p>5 Q. Okay. Who primarily did those</p> <p>6 pharmacies order class 3 narcotics from?</p> <p>7 A. The wholesalers.</p> <p>8 Q. So those would be called outside</p> <p>9 vendors, correct?</p> <p>10 A. Correct.</p> <p>11 Q. So did the outside vendors then supply</p> <p>12 more quantities of narcotics to those</p> <p>13 pharmacies during that time frame than CVS</p> <p>14 distribution centers did?</p> <p>15 A. I don't know. I don't know the</p> <p>16 quantities.</p> <p>17 Q. When I meant primarily, I meant</p> <p>18 primarily who was the one that a pharmacy</p> <p>19 would pick up the phone and call in order to</p> <p>20 make an order?</p> <p>21 A. The wholesalers.</p> <p>22 Q. And then secondarily, they would call</p> <p>23 the CVS distribution centers?</p> <p>24 A. There was a period -- there was a</p>	<p>1 Q. There was a change in the scheduling</p> <p>2 October 6, 2014 where HCPs or hydrocodone</p> <p>3 combination products were scheduled upward by</p> <p>4 the FDA to Schedule II?</p> <p>5 A. Correct.</p> <p>6 Q. So what I'm asking is, during the</p> <p>7 period of time from 2007 to 2014, October --</p> <p>8 A. Correct.</p> <p>9 Q. -- when HCPs were Schedule IIIs --</p> <p>10 A. Correct.</p> <p>11 Q. -- did CVS pharmacies order those</p> <p>12 hydrocodone combination products from outside</p> <p>13 vendors other than CVS distribution centers?</p> <p>14 A. They did also order from outside</p> <p>15 vendors, correct.</p> <p>16 Q. And did they order as much or more</p> <p>17 from outside vendors than they did from CVS</p> <p>18 distribution centers, or do you know?</p> <p>19 A. I don't know.</p> <p>20 Q. In addition to ordering from outside</p> <p>21 vendors, did the CVS pharmacies, during that</p> <p>22 time frame from 2007 through 2014 October,</p> <p>23 order from CVS distribution centers when</p> <p>24 they -- when they needed Schedule III</p>

Page 34

1     narcotics?  
2     A.   Yes.  
3     Q.   And my question relates back to this  
4     Exhibit No. 25, which is the list of Track 1  
5     CVS stores which are in Ohio.  
6     Did the CVS distribution centers, to  
7     your knowledge, during the period of 2007  
8     through 2014, October, supply class 3  
9     narcotics, including hydrocodone combination  
10    products, to that list of CVS stores?  
11    MR. BUSH: Objection.  
12    BY MR. BAKER:  
13    Q.   To your knowledge?  
14    A.   My difficulty is not knowing whether  
15    or not these addresses are the CVS stores,  
16    but...  
17    Q.   I want you to assume --  
18    A.   Yeah.  
19    Q.   -- for the sake of my question that --  
20    I've handed you Exhibit No. 25, assume that  
21    that's the list of stores in what's called the  
22    Track 1 CVS, which would be -- which would be  
23    inclusive of Summit County, Ohio and Cuyahoga  
24    County, Ohio.

Page 35

1     A.   Okay.  
2     Q.   I want you to assume that.  
3     A.   Okay.  
4     Q.   I want you to assume -- I'm asking  
5     you, for the period of 2007 through 2014,  
6     October, did CVS distribution centers supply  
7     hydrocodone combination products to that list  
8     of stores, if that is a list of Track 1  
9     stores?  
10    A.   If this is the accurate list, the  
11    answer would be yes.  
12    Q.   Okay. Thank you.  
13    Now, during the period of time that  
14    you were employed by CVS, the CVS pharmacies  
15    sold both Schedule II narcotics and Schedule  
16    III narcotics, is that correct?  
17    A.   Correct.  
18    Q.   Then from the period of October 2014  
19    when the Schedule III narcotics of HCPs,  
20    hydrocodone combination products, were then  
21    rescheduled to Schedule IIs, at that point,  
22    all of the narcotics that were sold by CVS  
23    pharmacies in Schedule IIs were provided by or  
24    supplied by outside vendors, correct?

Page 36

1     A.   Correct.  
2     Q.   Now, narcotics are controlled  
3     substances under federal law. You know that,  
4     right?  
5     A.   Yes.  
6     Q.   And you know that controlled  
7     substances, in order to distribute those, you  
8     have to have a certain type of license from  
9     the DEA, correct?  
10    A.   Correct.  
11    Q.   And you understand, as senior vice  
12    president of logistics or prior senior vice  
13    president of logistics, that that requires the  
14    distribution centers to follow the rules  
15    related to what DEA lays down for distribution  
16    centers, correct?  
17    A.   Correct.  
18    Q.   Now, you're aware that during the  
19    period of time of 2006, at the very least  
20    2006, there was a period thereafter where  
21    there was a build-up of the opioid crisis,  
22    correct?  
23    A.   I -- I'm not -- I'm not sure about  
24    what's defined as a build-up. I mean...

Page 37

1     Q.   Are you familiar that this country is  
2     in the midst of an opioid crisis?  
3     A.   Yes, I am.  
4     Q.   Are you familiar that that's been  
5     going on for at least the past ten years?  
6     A.   Yes.  
7     Q.   Are you familiar with the statistics  
8     related to that?  
9     A.   I am not.  
10    MR. BAKER: Could you please  
11    pull up the charts, the DEA charts, please, in  
12    sequence.  
13    I'm on Plaintiffs' Exhibit 3.  
14      
15    (Exhibit No. 3 marked for  
16    identification.)  
17      
18    BY MR. BAKER:  
19    Q.   I'm going to show you -- well, first  
20    of all, you know who the DEA is -- the US DEA  
21    is, correct?  
22    A.   Correct.  
23    Q.   That's the United States Drug  
24    Enforcement Administration, which governs the

Page 38

1 regulation of narcotics, correct?  
2 A. Correct.  
3 Q. Now, are you familiar with the  
4 poisoning deaths of opioid analgesics having  
5 increased virtually every single year from  
6 1999 through 2013?  
7 A. I am not.  
8 Q. Are you familiar with the fact that,  
9 for instance, in 2007, when you became senior  
10 vice president of logistics, that there were  
11 14,440 -- 14,459 deaths from opioid  
12 analgesics?  
13 MR. BUSH: Objection.  
14 BY MR. BAKER:  
15 Q. Did you know that?  
16 A. I did not.  
17 Q. Is that what that chart indicates to  
18 you?  
19 A. It does, yeah.  
20 Q. Assuming this chart to be correct, did  
21 you know that, during the period of time that  
22 you were senior vice president of logistics at  
23 CVS, that the opioid deaths increased to a  
24 peak of over 16,000 per year between 2010 and

Page 39

1 2013?  
2 A. I was not aware of that.  
3 Q. Are you aware of how many people are  
4 dying today?  
5 A. I do not know the stat.  
6 Q. Is this something that you studied  
7 about when you were senior vice president of  
8 logistics at CVS in charge of the suspicious  
9 order monitoring program?  
10 A. I did not study it, no.  
11 Q. Did you ever try to familiarize  
12 yourself with the extent of the crisis and the  
13 extent of the deaths that were occurring in  
14 the United States as a result of opioids?  
15 A. I did not.  
16 Q. Did you realize that these opioids  
17 that were causing these deaths were  
18 distributed through CVS pharmacies?  
19 MR. BUSH: Objection.  
20 BY MR. BAKER:  
21 Q. Or distributed to CVS pharmacies?  
22 MR. BUSH: Objection.  
23 BY MR. BAKER:  
24 Q. Did you know that?

Page 40

1 MR. BUSH: Objection.  
2 BY MR. BAKER:  
3 Q. Yes?  
4 A. Yes.  
5 Q. Okay. Did you know that -- go to the  
6 next one -- that the International Narcotics  
7 Control Board gathered statistics in 2012 as  
8 to who was consuming the highest amount of  
9 hydrocodone in the world? Did you know that?  
10 A. I did not.  
11 Q. Did you know that the United States,  
12 according to the statistics kept by the DEA  
13 and this chart, was the country with the  
14 highest -- with the highest consumption of  
15 hydrocodone, which is -- which is 99 percent  
16 of global consumption?  
17 A. I'm not aware of that.  
18 Q. Okay. Did you know that CVS sold or  
19 that your distribution centers that you were  
20 in charge of during the period of 2007 through  
21 2014 distributed hydrocodone combination  
22 products to CVS pharmacies that account for  
23 part of that 99 percent?  
24 A. Yes.

Page 41

1 Q. Let me ask you to look at the next  
2 chart. It's entitled "United States Rates of  
3 Opioid Overdose Deaths, Sales, and Treatment  
4 Admissions of 1999 to 2010."  
5 Do you see that chart in front of  
6 you?  
7 A. I do.  
8 Q. Do you see that there are three lines.  
9 One is green on the top. One is red in the  
10 middle. One is blue on the bottom.  
11 Do you see that chart?  
12 A. I do.  
13 Q. Have you ever seen this chart before?  
14 A. I have not.  
15 Q. I want you to assume that these are  
16 statistics that were gathered by the United  
17 States DEA and charted as such.  
18 Do you see that the top number there,  
19 the top line is called "Opioid sales"?  
20 Do you see that?  
21 A. I do.  
22 Q. And do you understand that the middle  
23 line is opioid deaths, the red line?  
24 A. I do.

Page 42

1 Q. Do you see that those lines run  
2 parallel to each other?  
3 A. I do.  
4 Q. Do they correlate with each other, to  
5 the best of your knowledge, from looking at  
6 that chart?  
7 A. Visually, they correlate.  
8 Q. Is there, according to this visual  
9 correlation, an opioid sales and opioid deaths  
10 correlation such that the higher the degree of  
11 sales of opioids during this period of time,  
12 the higher degree of deaths during this period  
13 of time?  
14 That's a yes or no.  
15 A. I'd say yes.  
16 Q. Let's go to the next document.  
17 The next document discusses the 2012  
18 Ohio drug overdose deaths.  
19 Do you see that?  
20 A. Yes.  
21 Q. Can I switch with you for just a  
22 second. Let me see that one that's yellowed  
23 in.  
24 Do you see on the top here, it says

Page 43

1 that "Drug overdose deaths continue to be a  
2 public health crisis in Ohio, with a 366  
3 percent increase in the number of deaths from  
4 2000 to 2012"?  
5 A. Yes.  
6 Q. Okay. Were you aware of that when you  
7 were working at CVS?  
8 Were you aware of this statistic?  
9 A. I was not.  
10 Q. Were you aware of any of the  
11 statistics that I showed you in the other  
12 charts --  
13 A. No.  
14 Q. -- from the DEA?  
15 A. I was not.  
16 Q. Skip down four bullet points. Bullet  
17 Point No. 4 and 5.  
18 Do you see her where it says "Opioids  
19 prescription or heroin remain the driving  
20 factor behind the unintentional drug overdose  
21 epidemic in Ohio, that approximately  
22 two-thirds, or 1,272, of the drug overdoses  
23 involved any opioid in 2012, similar to 2011."  
24 Did you know that?

Page 44

1 A. I did not.  
2 Q. Do you know that these statistics were  
3 gathered by the Ohio Department of Health,  
4 Office of Vital Statistics analysis conducted  
5 by the Injury Prevention Program? Did you  
6 know that?  
7 A. I did not.  
8 Q. Did anybody ever show you these  
9 statistics, or did you ever try to study these  
10 statistics when you were employed by CVS in  
11 charge of the suspicious order monitoring  
12 program?  
13 A. No.  
14 Q. Did the opioid crisis and the  
15 statistics associated with the opioid crisis  
16 have any concern of you while you were  
17 employed by CVS as the senior vice president  
18 in charge of logistics?  
19 Did that concern you at all?  
20 A. It -- I'd say yes. Yeah.  
21 Q. If it concerned you, then, why did you  
22 not attempt to do any research on it to see  
23 the extent of the problem?  
24 A. I had -- I had people directly

Page 45

1 responsible for managing all that detail.  
2 MR. BUSH: Go ahead. You can  
3 answer. It looked like Bill was going to  
4 interrupt you. I just wanted to make sure you  
5 got to answer the question.  
6 BY MR. BAKER:  
7 Q. But you were never told by those  
8 people what the research showed; is that what  
9 you're saying?  
10 A. That's correct.  
11 Q. Pull out the next chart, please. This  
12 is called the drug diversion map.  
13 MR. BUSH: I think you took the  
14 exhibit from him.  
15 MR. BAKER: I'm sorry. Let's  
16 see that one back, please.  
17 BY MR. BAKER:  
18 Q. This is called a "Drug Diversion Map,  
19 Migration Out of Florida."  
20 Have you ever seen this map before?  
21 A. I have not.  
22 Q. This map -- your lawyer can explain,  
23 because we've gone over this in  
24 Miss Propatier's deposition -- this map is

<p style="text-align: right;">Page 46</p> <p>1 something that is a CVS document.</p> <p>2 Did you know that?</p> <p>3 A. I did not.</p> <p>4 Q. Did you know that this map was</p> <p>5 contained within CVS files, the drug diversion</p> <p>6 migration out of Florida map?</p> <p>7 A. I did not.</p> <p>8 Q. Have you ever heard of the opioid or</p> <p>9 OxyContin Express?</p> <p>10 A. I have not.</p> <p>11 Q. Have you ever heard of something</p> <p>12 called the Opioid Express?</p> <p>13 A. No.</p> <p>14 Q. Are you familiar with the concept of</p> <p>15 migration of opioids out of Florida up through</p> <p>16 states north of there, inclusive of Ohio? Are</p> <p>17 you familiar with that?</p> <p>18 A. I am not.</p> <p>19 Q. Nobody ever attempted to explain that</p> <p>20 this exists?</p> <p>21 A. I'm not familiar with it.</p> <p>22 MR. BAKER: Let me see that</p> <p>23 back, if I could. Actually, you can have it.</p> <p>24 Give me Exhibit 60, please.</p>	<p style="text-align: right;">Page 48</p> <p>1 exception of Kansas City.</p> <p>2 A. Correct.</p> <p>3 Q. Is that right?</p> <p>4 A. Correct.</p> <p>5 Q. Kansas City is not on this list, and</p> <p>6 Kansas City would make it number 20; is that</p> <p>7 right?</p> <p>8 A. Correct.</p> <p>9 Q. So right now, to your knowledge, there</p> <p>10 are 20 distribution centers of CVS throughout</p> <p>11 the United States?</p> <p>12 A. Yes.</p> <p>13 Q. Is that correct?</p> <p>14 A. There is no DC in Puerto Rico.</p> <p>15 Q. So there are 19 distribution centers,</p> <p>16 but Puerto Rico is what?</p> <p>17 A. Puerto Rico, we had stores, but we did</p> <p>18 not have a distribution center there.</p> <p>19 Q. Did the suspicious order monitoring</p> <p>20 system that was run through your department</p> <p>21 from 2007 through 2014, when you were employed</p> <p>22 there, did it include transactions to stores</p> <p>23 in Puerto Rico or not?</p> <p>24 MR. BUSH: Objection. That</p>
<p style="text-align: right;">Page 47</p> <p>1</p> <p>2 (Exhibit No. 60 marked for</p> <p>3 identification.)</p> <p>4</p> <p>5 BY MR. BAKER:</p> <p>6 Q. I'm handing you Exhibit 60. This is a</p> <p>7 list of CVS logistics distribution centers in</p> <p>8 existence as of June of 2014; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. And it lists 19 distribution centers,</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. Now, you -- did you resign from CVS?</p> <p>14 A. I retired from CVS.</p> <p>15 Q. You retired?</p> <p>16 A. Yeah.</p> <p>17 Q. What month did you retire?</p> <p>18 A. December.</p> <p>19 Q. Of 2014?</p> <p>20 A. '17.</p> <p>21 Q. '17. I'm sorry.</p> <p>22 So this is a complete list of all the</p> <p>23 distribution centers in the United States even</p> <p>24 as of now; is that correct? With the</p>	<p style="text-align: right;">Page 49</p> <p>1 misstates the record.</p> <p>2 A. I'm not aware of that.</p> <p>3 BY MR. BAKER:</p> <p>4 Q. Were there CVS retail stores in Puerto</p> <p>5 Rico?</p> <p>6 A. I don't recall when we opened up</p> <p>7 stores in Puerto Rico.</p> <p>8 Q. Were there pharmacies in Puerto Rico?</p> <p>9 A. Yes.</p> <p>10 Q. When do you believe, to the best of</p> <p>11 your recollection, there were pharmacies in</p> <p>12 Puerto Rico?</p> <p>13 A. I don't recall. I don't recall.</p> <p>14 Q. When there were pharmacies in Puerto</p> <p>15 Rico during your time at CVS, did CVS supply</p> <p>16 from its distribution centers any narcotics to</p> <p>17 Puerto Rico pharmacies?</p> <p>18 A. No.</p> <p>19 Q. When you were employed at CVS, did the</p> <p>20 Puerto Rico retailers, the Puerto Rico</p> <p>21 pharmacies order all of their narcotics,</p> <p>22 class 2s and class 3s, from outside vendors?</p> <p>23 A. Yes.</p> <p>24 Q. During the period of time that you</p>



Page 50

1 were employed at CVS, did any of those drugs  
2 that were supplied to the Puerto Rico  
3 pharmacies run through the suspicious order  
4 monitoring system at CVS?  
5 A. I am -- I don't know.  
6 Q. You don't recall having seen any of  
7 that, do you?  
8 A. I don't.  
9 Q. So Puerto Rico was an outlier on its  
10 own relative to whether anybody was or wasn't  
11 going to monitor that in the context of CVS's  
12 efforts; is that correct?  
13 A. Yeah, I'm not aware, yeah.  
14 Q. Insofar as the suspicious order  
15 monitoring system that your department owned  
16 from 2012 through 2014 when you were there, it  
17 was responsible for doing the suspicious order  
18 monitoring of all narcotics that were received  
19 by the pharmacies in the CVS chain throughout  
20 the United States; is that correct?  
21 MR. BUSH: Objection.  
22 A. I'm not 100 percent sure, yeah.  
23 BY MR. BAKER:  
24 Q. Now, you were the person most senior

Page 51

1 in the logistics department that was in charge  
2 of the suspicious order monitoring system from  
3 2012 through 2014, correct?  
4 A. Correct.  
5 Q. My question is was that department in  
6 charge of monitoring suspicious orders by all  
7 of the CVS pharmacies throughout the United  
8 States?  
9 A. I'm not sure. Again, your -- I don't  
10 know. I'm not clear.  
11 Q. It was a nationwide suspicious order  
12 monitoring system, correct?  
13 A. Correct.  
14 Q. It wasn't something that was  
15 distribution center to distribution center in  
16 2012, was it?  
17 It was all in Indiana at that point,  
18 was it not?  
19 A. Correct.  
20 Q. Okay. So it centralized in the  
21 Indiana distribution center, correct?  
22 A. Correct.  
23 Q. And that's -- that's a logistics  
24 department?

Page 52

1 A. Correct.  
2 Q. Where you were in charge of,  
3 correct?  
4 A. Correct.  
5 Q. So my question is did that  
6 distribution center run the suspicious order  
7 monitoring system for the entire United  
8 States?  
9 A. At that time yes, yes.  
10 Q. And so any narcotics that were ordered  
11 by any CVS pharmacy, that's what you were in  
12 charge of monitoring in Indiana, correct?  
13 MR. BUSH: Objection.  
14 BY MR. BAKER:  
15 Q. Is that right?  
16 A. The -- yeah, I --  
17 MR. BUSH: You can answer the  
18 question.  
19 A. I am not sure, because of the  
20 outside -- outside vendor component.  
21 BY MR. BAKER:  
22 Q. So let me ask it this way: With  
23 respect to class 3 narcotics, which would have  
24 included hydrocodone combination products up

Page 53

1 until October 2014 --  
2 A. Correct.  
3 Q. -- all of the suspicious order  
4 monitoring that was done for the class 3  
5 narcotics was run out of one distribution  
6 center, which was Indiana from 2012 to 2014;  
7 is that correct?  
8 A. That is correct.  
9 Q. And that would include all of the  
10 class 3 narcotics that would have been ordered  
11 through CVS distribution centers, correct?  
12 A. Correct.  
13 Q. That would have also included all of  
14 the class 3 narcotics that were ordered  
15 through outside vendors by CVS pharmacies,  
16 correct?  
17 A. I'm not sure. I'm not clear on that.  
18 Q. We'll get into that in a minute.  
19 A. All right.  
20 Q. So are you familiar with even what the  
21 suspicious order monitoring system monitored,  
22 whether it be just those class 3 narcotics  
23 that were ordered from CVS distribution  
24 centers or if it also included the CVS outside

Page 54

1 vendors or not?

2 Do you know or have any idea?

3 A. I'm not clear -- not sure.

4 Q. But, again, you were the senior person

5 in charge of that program, right?

6 A. I was the senior person responsible

7 for the entire logistics organization.

8 Q. Okay.

9 A. And let me clarify. That was not my

10 sole responsibility, also. But I...

11 MR. BAKER: Could you hand me

12 Exhibit 113, please.

13

14 (Exhibit No. 113 marked for

15 identification.)

16

17 MR. BAKER: Off the record for a

18 quick break.

19 THE VIDEOGRAPHER: The time is

20 9:48 a.m., and we're off the record.

21

22 (Brief recess.)

23

24 THE VIDEOGRAPHER: The time is

Page 55

1 9:48 a.m., and we're on the record.

2

3 BY MR. BAKER:

4 Q. I'm going to hand you Exhibit 113.

5 This is Bates number 100362.

6 MR. BUSH: Can I have one?

7 BY MR. BAKER:

8 Q. This is a logistics planning update

9 dated July 8, 2013, correct?

10 A. Correct.

11 Q. Logistics planning updates are

12 summaries of how things are going as of that

13 time, more or less; is that correct?

14 A. Point in time updates, correct.

15 Q. And these are commonly done within the

16 logistics department, inclusive of where the

17 SOM system was run out of Indiana, correct?

18 A. Correct.

19 Q. Now, I want you to turn to page 3 of

20 that document, under "Suspicious Order

21 Monitoring."

22 You see the fifth bullet down where it

23 says, "SOM process"? Do you see that?

24 A. Yes.

Page 56

1 Q. It states, "SOM process will include

2 store controlled substances, orders placed

3 with CVS warehouses and outside vendors,

4 Cardinal and McKesson," correct?

5 A. Correct.

6 Q. So we know from looking at this,

7 July 8, 2013, that prospectively at least, the

8 plan was at that time to include outside

9 vendors, correct?

10 A. Correct.

11 Q. And up until that time, outside vendor

12 purchases by CVS pharmacies were not being

13 monitored by CVS; is that correct?

14 A. Again, I was not -- I'm not aware --

15 I'm not aware that it wasn't.

16 Q. At least according to the document,

17 that's what it indicates; is that right?

18 A. Correct.

19 Q. And these are the same stores that

20 were purchasing narcotics that were for sale

21 retail to the United States public; is that

22 correct?

23 A. Correct.

24 Q. And those included class 3 narcotics;

Page 57

1 is that right?

2 A. Correct.

3 Q. And those also included class 2

4 narcotics, correct?

5 A. Correct.

6 Q. So who, if anybody, was monitoring

7 those purchases by CVS pharmacies and sales to

8 the general public, to your knowledge, if

9 anybody?

10 A. I'm not aware of who would be

11 monitoring that.

12 Q. So let's proceed to document 19B.

13

14 (Exhibit No. 19B marked for

15 identification.)

16

17 BY MR. BAKER:

18 Q. This is an e-mail dated 8/22/14, from

19 Pamela Hinkle to a series of people within

20 CVS.

21 Do you see that?

22 A. I do.

23 Q. All right. You see there where she

24 says that -- it says, "So we will be out of

Page 58

1 the hydro business on October 6."  
2 Do you see that?  
3 A. I do.  
4 Q. What that means to you is that the  
5 hydrocodone combination products were being  
6 rescheduled from a class 3 to a class 2 as of  
7 that date and, therefore, CVS distribution  
8 centers would no longer carry them in the  
9 distribution centers, correct?  
10 A. Correct.  
11 Q. Now, you understand the context of the  
12 opioid crisis relative to the increase in  
13 opioid sales?  
14 I showed you that in the chart,  
15 correct?  
16 A. (Witness nodding.)  
17 Q. Correct?  
18 A. Correct.  
19 Q. You realize that when opioids are sold  
20 and not monitored that that increases the  
21 chance of diversion of those opioids, correct?  
22 Yes or no?  
23 MR. BUSH: It may not be a  
24 yes-or-no answer.

Page 59

1 You can answer it how you need to  
2 answer it.  
3 BY MR. BAKER:  
4 Q. Go ahead.  
5 A. I'm not sure that there is -- there is  
6 or isn't a correlation to that, but...  
7 Q. You understand the concept of  
8 diversion, don't you?  
9 A. Yes, I do.  
10 Q. Tell me what your concept of diversion  
11 is.  
12 A. Product being diverted illegally for,  
13 you know, you know, not being used for the --  
14 its intended use.  
15 Q. The purpose of this suspicious order  
16 monitoring system is to prevent or try to ward  
17 off the concept of diversion of these  
18 narcotics, correct?  
19 A. Correct.  
20 Q. You realize that when those narcotics  
21 are not monitored under a suspicious order  
22 monitoring system, that the chances of  
23 diversion increases highly?  
24 A. Not sure. Not...

Page 60

1 Q. Well, if the purpose of the system is  
2 to prevent diversion and there's no system in  
3 place to do it --  
4 A. Yeah.  
5 Q. -- then naturally, the chances of  
6 diversion increase, correct?  
7 A. Yes. Yeah.  
8 Q. So, see, that's one of those questions  
9 that has a logical answer. So I appreciate  
10 you answering it logically rather than trying  
11 to do the dance. Okay?  
12 MR. BUSH: Objection to the  
13 speech by counsel.  
14 BY MR. BAKER:  
15 Q. So these narcotics that have a higher  
16 opportunity for diversion when they are not  
17 being monitored, those are the same narcotics,  
18 according to the DEA, that are causing deaths  
19 in this opioid crisis, correct?  
20 A. Correct.  
21 Q. And those are the same narcotics that  
22 are sold by CVS pharmacies, correct?  
23 A. Correct.  
24 Q. And those are the same narcotics that

Page 61

1 we've been talking about, which are Schedule  
2 II narcotics and Schedule III narcotics,  
3 correct?  
4 A. Correct.  
5 MR. BAKER: Could you go to  
6 No. 58, please.  
7 Strike that. Go to No. 49.  
8  
9 (Exhibit No. 49 marked for  
10 identification.)  
11  
12 BY MR. BAKER:  
13 Q. Do you recall where I was asking you  
14 previously if you knew from whom these  
15 narcotics were being purchased? Do you recall  
16 that?  
17 A. I do not.  
18 Q. We were talking about outside vendors  
19 and who these outside vendors were that were  
20 supplying narcotics to CVS, correct?  
21 A. Correct.  
22 Q. Do you -- you see what you have in  
23 front of you -- let me see that back.  
24 MR. BUSH: I wrote on it. I'm

Page 62

1       sorry.

2               MR. BAKER: That's fine. If you

3       hand me that back.

4       BY MR. BAKER:

5               Q. These are examples of what are called

6       wholesale supply agreements, correct?

7               A. I'm --

8               MR. BUSH: Take your time and

9       look through them, please.

10              MR. BAKER: We'll go off the

11       record while you have a chance to look through

12       them, because I want --

13              MR. BUSH: I'm sorry. You're

14       going to have to be on the record. It's your

15       deposition. It's your time.

16              If you give him a document that is

17       whatever this is, 770 pages long, he gets a

18       chance to look at it.

19              MR. BAKER: That's fine, and

20       I've offered him that. But we're not going to

21       sit here and tape it while he sits and thumbs

22       through it.

23              So we'll take a break and allow him to

24       do it.

Page 63

1              So go ahead and do it and we'll go

2       back --

3              MR. BUSH: I object to that. As

4       far as I'm concerned, you're on the record and

5       your time is running.

6              MR. BAKER: Okay.

7              MR. BUSH: That's the way it

8       works.

9              MR. BAKER: All right.

10       BY MR. BAKER:

11              Q. Let me go ahead and have you directed

12       to the front page here. It's Page No. 30750

13       of Exhibit 49.

14              Do you see it?

15              A. Okay.

16              Q. Do you see it?

17              A. Yes, yes.

18              Q. The front page?

19              A. Yes.

20              Q. It says, "This document will confirm

21       the agreement between Cardinal Health and CVS

22       Pharmacy Inc."

23              Do you see that?

24              A. Where?

Page 64

1              Q. Right here in the first paragraph?

2              A. I'm sorry. I was looking on the

3       bottom.

4              Q. Do you see that?

5              A. Yes.

6              Q. Is this an example of a wholesale

7       supply agreement between one of the pharmacies

8       and an outside vendor?

9              MR. BUSH: Objection.

10             A. This is the first time I've seen a

11       document like this. So, you know, it's the

12       first time I've seen this.

13       BY MR. BAKER:

14              Q. You've never seen this before?

15              A. I've never seen this before.

16              Q. Have you ever seen the contracts

17       between the CVS pharmacies and outside vendors

18       or not?

19              A. Never.

20              Q. We'll move on. If you've never seen

21       it, there's no sense of me going over it with

22       you.

23              VOICE: Can I have the Bates

24       number for that document, please?

Page 65

1              MR. BAKER: Yeah. Bates Number

2       30750.

3              VOICE: What --

4              MR. BAKER: Whoever that is, I'm

5       going to say the Bates number from now on, but

6       it's 30750.

7       BY MR. BAKER:

8              Q. Could you go to exhibit --

9              VOICE: So --

10             MR. BAKER: 30750. Thank you.

11       BY MR. BAKER:

12              Q. Let me show you Exhibit No. 50.

13              

14              (Exhibit No. 50 marked for

15       identification.)

16              

17       BY MR. BAKER:

18              Q. This is a document entitled "Wholesale

19       Supply Agreement, July 1, 2009." Do you see

20       that? Between Cardinal Health and CVS, Inc.

21              Do you see that in the first

22       paragraph?

23              A. I do.

24              Q. The Bates number on this is 30817,

<p style="text-align: right;">Page 66</p> <p>1 correct? At the bottom?</p> <p>2 A. Correct. Correct.</p> <p>3 Q. And this is dated July 1, 2009,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. All right. And you see on page 30840</p> <p>7 in that agreement, but I'll show it to you</p> <p>8 right here -- do you see on page 30817 in that</p> <p>9 agreement that it is signed by CVS Pharmacy,</p> <p>10 Inc., 7/1/2009?</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. This is signed by CVS Pharmacy</p> <p>14 Purchasing and Pharmaceutical Relations,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Is that who does the purchasing of</p> <p>18 these outside vendor supply --</p> <p>19 A. Yes.</p> <p>20 Q. -- of narcotics to CVS pharmacies?</p> <p>21 A. Yes.</p> <p>22 Q. And you're not made aware of that when</p> <p>23 these purchases are going on, correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Correct.</p> <p>2 Q. The second page is a wholesale supply</p> <p>3 agreement -- or the first page of a wholesale</p> <p>4 supply agreement between CVS and Cardinal,</p> <p>5 July 1, 2007, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Again, these are these outside vendors</p> <p>8 from whom -- an example of an outside vendor</p> <p>9 from whom CVS purchased narcotics, correct?</p> <p>10 A. Correct.</p> <p>11 Q. For sale in its pharmacies to the</p> <p>12 public in the United States, correct?</p> <p>13 A. Correct.</p> <p>14 Q. These relationships with these outside</p> <p>15 vendors go back for greater than ten years,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. They go back to the 1990s, all the way</p> <p>19 through the 2000s, all the way through where</p> <p>20 we are today, correct?</p> <p>21 A. I believe so.</p> <p>22 Q. And who's monitoring those, you really</p> <p>23 have no idea, correct?</p> <p>24 A. I have no idea.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. And so you really have no idea during</p> <p>2 the period of time that you were in charge of</p> <p>3 the suspicious order monitoring program and</p> <p>4 logistics just the extent to which these</p> <p>5 outside vendors were providing narcotics to</p> <p>6 CVS pharmacies; is that correct?</p> <p>7 A. That is correct.</p> <p>8 MR. BAKER: Let me show you</p> <p>9 Exhibit 51.</p> <p>10</p> <p>11 (Exhibit No. 51 marked for</p> <p>12 identification.)</p> <p>13</p> <p>14 BY MR. BAKER:</p> <p>15 Q. Exhibit 51 is two pages. The first</p> <p>16 page is Bates 30892. The second page is Bates</p> <p>17 30995.</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Okay. This is a wholesale supply</p> <p>21 agreement between CVS and Cardinal -- the</p> <p>22 first page, or the first page of a wholesale</p> <p>23 supply agreement between CVS and Cardinal</p> <p>24 dated January 1, 2004, correct?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Or if they ever were monitored,</p> <p>2 correct?</p> <p>3 A. I have no idea what the --</p> <p>4 Q. At least we know during the period of</p> <p>5 time -- I'm sorry. I overstepped you. Go</p> <p>6 ahead.</p> <p>7 A. No, that's fine. I'm done.</p> <p>8 Q. At least during the period of time</p> <p>9 that you were in charge of the suspicious</p> <p>10 order monitoring program in logistics from</p> <p>11 2012 through October of 2014 or December of</p> <p>12 2014, you knew that these outside vendor</p> <p>13 purchases were being made, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And you knew that they were not being</p> <p>16 monitored?</p> <p>17 MR. BUSH: Objection.</p> <p>18 A. I did not know that. I had no</p> <p>19 knowledge of that.</p> <p>20 VOICE: Object to form on behalf</p> <p>21 of --</p> <p>22 BY MR. BAKER:</p> <p>23 Q. Well, I showed you. I showed you --</p> <p>24 MR. BAKER: Whoever that is,</p>



Page 70

1 please put your mute button on. Thank you.  
2 MR. BUSH: He was objecting, I  
3 think.  
4 BY MR. BAKER:  
5 Q. You knew that --  
6 MR. BAKER: You understand  
7 there's one defense attorney here representing  
8 CVS to make those objections, so please don't  
9 do that over the phone.  
10 BY MR. BAKER:  
11 Q. So let's move on.  
12 So you knew during the period of time  
13 that these outside vendor purchases were being  
14 done, at least according to the logistics  
15 planning document that I showed you, that SOM  
16 was not being done on the outside vendors at  
17 least as of July 2013?  
18 MR. BUSH: Objection. Misstates  
19 the record.  
20 A. That, I am not aware of. I am not  
21 aware of that.  
22 BY MR. BAKER:  
23 Q. Do you recall me showing you the  
24 document where it says the plan was to do it

Page 71

1 in future?  
2 MR. BUSH: Objection. That  
3 misstates the record.  
4 BY MR. BAKER:  
5 Q. Do you recall that document?  
6 A. I do recall the document.  
7 Q. And do you recall that in 2014, there  
8 was a retunement of the SOM process with a  
9 different company other than the company that  
10 you had been working with before?  
11 A. Correct.  
12 Q. And you understand that that new  
13 company was AGI?  
14 A. Correct.  
15 Q. And that new company, for the first  
16 time, put in a process where there would be  
17 monitoring of outside vendor orders for CVS,  
18 correct?  
19 A. I believe that's correct, yes.  
20 Q. And that outside vendor process wasn't  
21 being monitored by CVS up until the time this  
22 new -- this new program was instituted in  
23 2014; is that correct?  
24 A. I -- I am not 100 percent sure

Page 72

1 because, again, I was not that close to the  
2 detail of what was happening at that time.  
3 Q. As the person in charge of the  
4 program, should you not be paying attention to  
5 those types of details?  
6 A. I -- I had people that were directly  
7 responsible for doing all this work, subject  
8 matter experts that were deeply involved with  
9 this.  
10 In my role, I mean, I had broad  
11 responsibility of managing the entire  
12 logistics network. So I -- I was not deeply  
13 involved in every transaction that took place  
14 relative to this.  
15 Q. Who, if anybody that you know of, was  
16 monitoring the orders made by CVS pharmacies  
17 from outside vendors up until the year 2014  
18 occurred?  
19 A. I don't know.  
20 Q. Is the answer that there was none?  
21 A. No. I -- I don't know.  
22 Q. You're not aware of any being done at  
23 least, correct?  
24 A. I -- I don't know whether it was being

Page 73

1 done or wasn't being done.  
2 Q. But during the period of time that you  
3 were in charge of it, from 2012 through 2014,  
4 you're not aware of any outside vendor orders  
5 being monitored by CVS, correct?  
6 MR. BUSH: Objection.  
7 A. I don't know for sure. I -- I don't  
8 know.  
9 BY MR. BAKER:  
10 Q. If you don't know for sure, do you  
11 know at all?  
12 A. Yeah, I don't know. I don't know.  
13 Q. So you don't know at all?  
14 A. I don't know.  
15 Q. At all?  
16 A. At all.  
17 MR. BAKER: Okay. All right.  
18 Could you pull up Exhibit 102, please.  
19  
20 (Exhibit No. 102 marked for  
21 identification.)  
22  
23 BY MR. BAKER:  
24 Q. Let me show you what's been marked as

<p style="text-align: right;">Page 74</p> <p>1 Exhibit 102. These are a series of letters  2 that were sent by the DEA to distributors of  3 narcotics throughout the United States in 2006  4 and 2007.  5 Have you ever seen these letters  6 before?  7 A. I have not.  8 Q. There's an e-mail from a person named  9 Ron Buzzeo to Amy Brown, 2/21/2008, where the  10 subject matter is "DEA Letters," and it lists  11 those dates of 2006 through 2007 with the  12 letters that you see before you, correct?  13 A. Correct.  14 Q. During this period of time, you were  15 where within CVS? 2008?  16 A. Where was I located?  17 Q. Yes, sir.  18 A. In Woonsocket.  19 Q. In the corporate office?  20 A. Corporate office.  21 Q. As was Amy Lynn Brown, who's Amy  22 Propatier, correct?  23 A. Correct.  24 Q. And you were not provided these</p>	<p style="text-align: right;">Page 76</p> <p>1 A. Correct.  2 Q. All right. And it says here,  3 "Background: As each of you is undoubtedly  4 aware, the abuse, nonmedical use of controlled  5 prescription drugs is a serious and growing  6 health problem in this country. DEA has an  7 obligation to combat this problem, as one of  8 the agency's core functions is to prevent the  9 diversion of controlled substances into illicit  10 channels. Congress assigned DEA to carry out  11 this function through enforcement of the  12 Controlled Substances Act and DEA regulations  13 that implement that act."  14 Do you see that?  15 A. I do.  16 Q. Are you familiar with the Controlled  17 Substances Act as it relates to the duties of  18 a distributor of narcotics such as CVS?  19 A. Yes.  20 Q. Do you see here on the second page of  21 that letter, and we're looking at Bates 91510,  22 and it starts with, midway down that page,  23 "The DEA regulations require."  24 And bold everything below that,</p>
<p style="text-align: right;">Page 75</p> <p>1 letters at all to ever read, to ever study?  2 A. I -- I have not seen these letters.  3 Q. You've never seen this before in your  4 life?  5 A. No.  6 Q. Let me show you -- we're on page 1 of  7 the September 6 letter, which is Bates  8 number 91509 where it says "Background."  9 Do you see that?  10 A. Yes.  11 Q. Highlight that first paragraph of  12 "Background" for me, please.  13 It says -- first of all, at the top,  14 it says, "This letter is being sent to every  15 commercial entity in the United States  16 registered with the DEA to distribute  17 controlled substances."  18 Do you see that?  19 A. I do.  20 Q. That would have included CVS, correct?  21 A. Correct.  22 Q. And we know CVS had these letters,  23 because they're distributing them in this  24 e-mail, correct?</p>	<p style="text-align: right;">Page 77</p> <p>1 please.  2 It says, "The DEA regulations require  3 all distributors to report suspicious orders  4 of controlled substances. Specifically, the  5 regulations state in 21 CFR 1301.74(b), the  6 registrant shall design and operate a system  7 to disclose to the registrant suspicious  8 orders of controlled substances. The  9 registrant shall inform the field division  10 office of administration in his area of  11 suspicious orders when discovered by the  12 registrant. Suspicious orders include orders  13 of unusual size, orders deviating  14 substantially from a normal pattern, and  15 orders of unusual frequency."  16 Do you see that?  17 A. I do.  18 Q. Is that the regulation that you were  19 familiar with while you were employed by CVS?  20 A. Yes.  21 Q. Is this the regulation that guided you  22 in your job in relation to suspicious order  23 monitoring?  24 A. Yes.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q. Did you take that obligation  2 seriously?  3 A. Yes.  4 Q. Go to the second letter, February 7 of  5 2007, and in the second paragraph of that,  6 under "Background," if you would highlight the  7 second paragraph under "Background."  8 It says, "The CSA was designed by  9 Congress to combat diversion by providing for  10 a closed system of drug distribution."  11 Correct? That's what it says?  12 A. Correct.  13 Q. So you understand that the purpose  14 behind the Controlled Substances Act that  15 guides you in your job under suspicious order  16 monitoring is to prevent diversion, correct?  17 A. Correct.  18 Q. And when diversion happens, that can  19 result in deaths like you saw in those charts,  20 correct?  21 It's a yes or no.  22 A. Yes.  23 Q. With respect to the responsibility,  24 it's the last sentence there, it says, "This</p>	<p style="text-align: right;">Page 80</p> <p>1 diversion." And highlight those four, please.  2 It says, "Ordering excessive  3 quantities of a limited variety of controlled  4 substances."  5 Do you see that, and in there it's  6 included as hydrocodone?  7 A. I do.  8 Q. Do you see that?  9 A. I do.  10 Q. Do you see No. 2, "Ordering a limited  11 variety of controlled substances in quantities  12 disproportionate to the quantity of  13 noncontrolled medications."  14 Do you see that?  15 A. I do.  16 Q. Do you see where it says, "Ordering  17 excessive quantities of a limited variety of  18 controlled substances in combination with  19 excessive quantities of lifestyle drugs."  20 Do you see that?  21 A. I do.  22 Q. Now, here's the next one, it says,  23 "Ordering the same controlled substances from  24 multiple distributors."</p>
<p style="text-align: right;">Page 79</p> <p>1 responsibility is critical, as Congress has  2 expressly declared that the illegal  3 distribution of controlled substances has a  4 substantial and detrimental effect on the  5 health and general welfare of the American  6 people."  7 Correct?  8 A. Correct.  9 Q. Right?  10 A. Correct.  11 MR. BUSH: You mean that that's  12 correct what it says?  13 BY MR. BAKER:  14 Q. That's what the letter says, correct?  15 A. Correct.  16 Q. And you have no reason to disagree  17 with that statement, do you?  18 A. I have no basis to disagree with it,  19 no.  20 Q. All right. Go to page 91515 of that  21 letter, which would be the third page of that  22 letter.  23 And it says, at the top,  24 "Circumstances that might be indicative of</p>	<p style="text-align: right;">Page 81</p> <p>1 Do you see that?  2 A. I do.  3 Q. That would include CVS ordering from  4 outside vendors, correct?  5 A. It would.  6 Q. And do you understand that the  7 Controlled Substances Act is supposed to cover  8 the monitoring of those outside vendor orders?  9 You understand that, correct?  10 MR. BUSH: Objection.  11 A. Yes.  12 BY MR. BAKER:  13 Q. But you also don't know what, if  14 anything, that CVS was doing to monitor  15 outside vendor orders during the period that  16 you were employed there, correct?  17 Correct?  18 A. Correct.  19 Q. Now go to the December 7, 2000 letter  20 within that package. It's Bates number 91517.  21 The first paragraph of that letter,  22 December 27, 2007, in this Bates number 91517  23 states, "Dear registrant: This letter is  24 being sent to every entity in the United</p>

<p style="text-align: right;">Page 82</p> <p>1 States registered with the DEA to manufacture  2 or distribute controlled substances."  3 Correct?  4 A. Correct.  5 Q. It says, "The purpose of this letter  6 is to reiterate the responsibilities of  7 controlled substance manufacturers and  8 distributors to inform the DEA of suspicious  9 orders in accordance with 211 CFR 1301.74(b)."  10 Correct?  11 A. Correct.  12 Q. And you know what 21 CFR 1301.74(b) is  13 because we just highlighted that repeated the  14 exact verbatim language of it in the prior  15 letter, the 2006, correct?  16 A. Correct.  17 Q. And you know that that's the law that  18 guides you or least that guided you while you  19 were employed by CVS with respect to the  20 suspicious order monitoring system, correct?  21 A. Correct.  22 Q. And you understand that this letter is  23 something to reiterate, not iterate for the  24 first time, but to reiterate this to the</p>	<p style="text-align: right;">Page 84</p> <p>1  2 MR. BAKER: Let's go off record  3 for a second.  4 THE VIDEOGRAPHER: The time is  5 10:15 a.m., and we're off the record.  6  7 (Brief recess.)  8  9 THE VIDEOGRAPHER: The time is  10 10:15 a.m., and we're on the record.  11  12 BY MR. BAKER:  13 Q. I'm going to show you Exhibit 58. And  14 this is -- begins with Bates number 34375.  15 Specifically, if you turn to the last page of  16 Exhibit 58, it's Bates-numbered 34378.  17 Now, this document on the front is  18 entitled "CVS Standard Operating Procedures,"  19 correct?  20 A. Correct.  21 Q. So you understand this is a CVS  22 document, right?  23 MR. BUSH: Objection.  24 A. It --</p>
<p style="text-align: right;">Page 83</p> <p>1 distributors of narcotics, correct?  2 MR. BUSH: Objection.  3 BY MR. BAKER:  4 Q. That's what it says, right?  5 A. It appears to be that way, yes.  6 Q. So this -- you understand that this  7 December 2007 letter wasn't the first time  8 that CVS was informed as a distributor by the  9 DEA that there were responsibilities with  10 respect to the Controlled Substances Act,  11 correct?  12 MR. BUSH: Objection.  13 A. Could you ask the question again.  14 BY MR. BAKER:  15 Q. I'll withdraw the question.  16 Do you understand that the Controlled  17 Substances Act has been on the books since  18 1971? Did you know that?  19 A. I did not know that.  20 MR. BAKER: Pull up Exhibit No.  21 58, please.  22  23 (Exhibit No. 58 marked for  24 identification.)</p>	<p style="text-align: right;">Page 85</p> <p>1 BY MR. BAKER:  2 Q. Well, look at it.  3 A. It appears to be, yes.  4 Q. It appears to be a CVS document?  5 A. (Witness nodding.)  6 Q. You understand every time that you see  7 a Bates number that says CVS at the bottom  8 that that's a document that was provided to  9 plaintiffs' counsel by CVS during the pendency  10 of this litigation?  11 A. Yes.  12 Q. So this is a CVS document, correct?  13 A. Yes.  14 Q. So look at where it says "Introduction  15 to the CSA and DEA regs."  16 Do you see that?  17 A. Yes.  18 Q. Do you see where it says "The  19 Controlled Substances Act was passed in  20 1971"?  21 A. Yes.  22 Q. This CSA, Controlled Substances Act,  23 has been in effect since the -- for the entire  24 time that you were employed in the field of</p>

Page 86

1 whatever you did at CVS from 1994 through  
2 2017, correct?  
3 MR. BUSH: Objection.  
4 BY MR. BAKER:  
5 Q. This -- this particular law was in  
6 effect during the entire time that you were  
7 employed by CVS, correct?  
8 A. It -- it -- yeah. I wasn't aware of  
9 it, but the answer is yes. Yeah.  
10 Q. You weren't aware of the law, or you  
11 weren't aware that it was in effect?  
12 A. In effect since 1991 (sic).  
13 Q. When did you first become aware that  
14 the law even existed?  
15 A. I don't recall.  
16 Q. Was it before 2012?  
17 A. I don't recall the exact date.  
18 Q. Was it any time before 2014?  
19 A. It's -- I'm not sure. I'm not sure.  
20 Q. Did you ever attend any DEA  
21 conferences --  
22 A. No.  
23 Q. -- that talked about suspicious order  
24 monitoring and what was expected of a

Page 87

1 distributor?  
2 A. No.  
3 Q. Did you ever attend any online  
4 tutorials about that?  
5 A. No.  
6 Q. Did you ever attend any in-house  
7 tutorials through CVS corporate or  
8 elsewhere?  
9 A. No.  
10 Q. Did you ever pick up a law book and  
11 read about that Controlled Substances Act?  
12 A. No, no.  
13 Q. Did you ever pick up any journals, any  
14 articles to read about the opioid crisis  
15 during the entire time that you were employed  
16 by CVS?  
17 A. No.  
18 Q. Are you familiar with the concept of  
19 the "Know Your Customer" policy?  
20 Are you familiar with that?  
21 Do you know what that means?  
22 A. I've heard of it, but I can't explain  
23 to you exactly what it is.  
24 Q. Can you explain to me inexactly what

Page 88

1 it is?  
2 A. No.  
3 Q. Can you explain any bit of it to me?  
4 A. No.  
5 Q. You don't know what the "Know Your  
6 Customer" policy is, do you?  
7 A. I don't believe so.  
8 Q. You've never even heard of it, have  
9 you?  
10 A. I -- I don't remember.  
11 Q. You don't recall having heard of it at  
12 all; is that correct?  
13 A. I don't recall.  
14 Q. So if I say, have you heard of the  
15 "Know Your Customer" policy, the answer is  
16 you've never heard of it, to the best of your  
17 knowledge; is that correct?  
18 A. I don't remember the policy. I don't  
19 remember -- I don't remember the program.  
20 Q. You don't remember ever even hearing  
21 about it, do you?  
22 A. I don't believe so.  
23 MR. BAKER: Let me show you  
24 what's marked as No. 12.

Page 89

1  
2 (Exhibit No. 12 marked for  
3 identification.)  
4  
5 BY MR. BAKER:  
6 Q. And it's CVS Bates number 2188.  
7 Would you highlight where it says,  
8 "Know Your Customer" and what the policy  
9 states, please.  
10 Do you see that this is a CVS document  
11 at the bottom? Do you see that?  
12 A. I do.  
13 MR. BUSH: Can we have just --  
14 Bill, you keep on saying it's a CVS document,  
15 and I want to make sure that the record's  
16 clear on what you mean by that.  
17 You mean that it was produced by CVS.  
18 It doesn't necessarily mean it was created by  
19 CVS.  
20 MR. BAKER: It has to be in  
21 their files.  
22 MR. BUSH: It was in their  
23 files. That doesn't mean it was created by  
24 them.



<p style="text-align: right;">Page 90</p> <p>1 BY MR. BAKER:</p> <p>2 Q. You understand that every time there's</p> <p>3 a document that has CVS written at the bottom</p> <p>4 of it like that, a Bates number, that came</p> <p>5 from CVS files. Do you understand that?</p> <p>6 A. I do.</p> <p>7 Q. So to that extent, it was a CVS</p> <p>8 document, correct?</p> <p>9 A. Correct.</p> <p>10 Q. So look at it -- this is talking about</p> <p>11 the SOM program. That's the suspicious order</p> <p>12 monitoring system program, at the top.</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. That's the program that you were in</p> <p>16 charge of from 2012 through when? Through the</p> <p>17 time you left?</p> <p>18 A. 2017.</p> <p>19 Q. Through 2017?</p> <p>20 A. Yeah.</p> <p>21 Q. And this is the policy you've never</p> <p>22 heard of, correct?</p> <p>23 MR. BUSH: Objection.</p> <p>24 A. This policy, I believe, resided in the</p>	<p style="text-align: right;">Page 92</p> <p>1 through 2017, do you think it would have been</p> <p>2 your duty to know that that's the foundation</p> <p>3 of designing the SOM program?</p> <p>4 MR. BUSH: Objection.</p> <p>5 A. Yeah, I -- again, as I stated earlier,</p> <p>6 there were people that were directly</p> <p>7 accountable for this program that were part of</p> <p>8 my organization, and the expectation was for</p> <p>9 them to be into that detail, where I was --</p> <p>10 where I was not.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. The policy states, "It is fundamental</p> <p>13 for sound operations that handlers take</p> <p>14 reasonable measures to identify their</p> <p>15 customers, understand the normal and expected</p> <p>16 transactions typically conducted by those</p> <p>17 customers, and consequently identify those</p> <p>18 transactions conducted by their customers that</p> <p>19 are suspicious in nature."</p> <p>20 That's the policy according to this</p> <p>21 document, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And you see that's taken directly from</p> <p>24 the DEA website, correct?</p>
<p style="text-align: right;">Page 91</p> <p>1 stores.</p> <p>2 BY MR. BAKER:</p> <p>3 Q. But not in the distribution centers?</p> <p>4 A. No.</p> <p>5 Q. Do you understand that this policy</p> <p>6 applies to distribution centers knowing their</p> <p>7 customer, which is the pharmacy? Do you</p> <p>8 understand that now?</p> <p>9 A. I do.</p> <p>10 Q. But you didn't understand it before I</p> <p>11 just said it, did you?</p> <p>12 A. No.</p> <p>13 Q. So look at it. It says, "'Know Your</p> <p>14 Customer' policy. First you must know and</p> <p>15 understand DEA's 'Know Your Customer' policy.</p> <p>16 This is the foundation to designing the SOM</p> <p>17 program."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Did you know that that was the</p> <p>21 foundation to designing the SOM program?</p> <p>22 A. I did not.</p> <p>23 Q. As somebody who was in charge of the</p> <p>24 SOM program for CVS for the period of 2012</p>	<p style="text-align: right;">Page 93</p> <p>1 A. Correct.</p> <p>2 Q. Now, during the period of time that</p> <p>3 you were employed at CVS as the head of</p> <p>4 logistics, which ran the SOM program from 2012</p> <p>5 through the time that you left in 2017, did</p> <p>6 you ever visit the DEA website?</p> <p>7 A. I did not.</p> <p>8 Q. Was it available for you to visit if</p> <p>9 you chose to do so?</p> <p>10 A. I'm sure it was.</p> <p>11 MR. BAKER: Let's go to Exhibit</p> <p>12 89, please.</p> <p>13 MR. BUSH: When you have a good</p> <p>14 moment for a break, let me know.</p> <p>15 MR. BAKER: Right after this</p> <p>16 exhibit.</p> <p>17</p> <p>18 (Exhibit No. 89 marked for</p> <p>19 identification.)</p> <p>20</p> <p>21 BY MR. BAKER:</p> <p>22 Q. Do you see here on Exhibit 89 where</p> <p>23 this is an exhibit, on the front page, May of</p> <p>24 2014. This is when you would have been in</p>

Page 94	Page 96
<p>1 charge of the suspicious order monitoring 2 program within logistics, correct? 3 A. Correct. 4 Q. And so this is a business confidential 5 agreement. This is a -- this is something 6 that you know to exist within the CVS 7 documents, correct? 8 A. Yeah, I don't recall seeing this 9 document, but I know it came from CVS. 10 Q. Okay. And, again, this repeats on 11 page 2 of that document the obligation under 12 21 CFR 1301.74(b) that "The registrant shall 13 design and operate a system to disclose to the 14 registrant suspicious orders of controlled 15 substances." Correct? 16 A. Correct. 17 Q. So this is something that's passed 18 around within that logistics operation to 19 remind people, this is what you're supposed to 20 do if you're involved with the SOM program, 21 correct? 22 MR. BUSH: Objection. 23 A. Again, I'm not sure if this was passed 24 around or -- again, I -- I have no</p>	<p>1 Bates 78029, and could you please go to the 2 last page of that exhibit, 78031. 3 Now, this is a CVS document. You see it 4 says CVS at the top of it? 5 A. I do. 6 Q. And on the front it says, "Suspicious 7 Order Monitoring, SOM, January 16, 2014," the 8 first page? 9 A. I do. 10 Q. You saw that, right? 11 A. I do. 12 Q. Let's go to the page that I was 13 talking about, which is the last page. The 14 second sentence there, if you highlight the 15 second sentence where it says "The regulation 16 clearly indicates" and finish it on out. 17 The first sentence, I'll read it, then 18 I want to highlight that second one. 19 It says "DEA regulations require 20 wholesale distributors to report suspicious 21 orders of controlled substances." 22 And, again, it talks about 23 21 CFR 1301.74(b) which you know, correct? 24 A. Correct.</p>
Page 95	Page 97
<p>1 recollection of seeing this document. I don't 2 know who -- where it was passed around to. 3 MR. BAKER: We've been going on 4 for an hour and a half, so we'll take a 5 break. 6 THE VIDEOGRAPHER: The time is 7 10:24 a.m., and we're off the record. 8 9 (Off the record at 10:24 a.m.) 10 11 (Exhibit No. 120 marked for 12 identification.) 13 14 THE VIDEOGRAPHER: The time is 10:37 15 a.m. We're on the record. 16 17 BY MR. BAKER: 18 Q. I'm going to show you Exhibit 87. 19 20 (Exhibit No. 87 marked for 21 identification.) 22 23 BY MR. BAKER: 24 Q. Could you please go to Exhibit 87,</p>	<p>1 Q. And it says "...specifically requires 2 that the registrant," and you understand what 3 a registrant is, right? 4 A registrant would be a licensee? 5 A. Yes. Correct. 6 Q. A licensee would be the CVS 7 distribution center, correct? 8 A. Correct. 9 Q. "...design and operate a system to 10 disclose to the registrant suspicious orders 11 of controlled substances." 12 Now the second sentence, let's focus 13 on that. 14 "The regulation clearly indicates that 15 it is the sole responsibility of the 16 registrant to design and operate such a 17 system." Correct? 18 A. Correct. 19 Q. Okay. So let's focus on that. 20 "The regulation clearly indicates that 21 it is the sole responsibility of the 22 registrant," and the registrant, as you 23 understand it, is the distribution center that 24 has the license to warehouse and distribute</p>

Page 98	Page 100
<p>1 these narcotics, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And the registrant would then</p> <p>4 be CVS, which owns those distribution centers,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And so CVS is the one that has the</p> <p>8 responsibility to design and operate the</p> <p>9 system that monitors suspicious orders,</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. Now, CVS hired an outside company to</p> <p>13 help it design such a system beginning in</p> <p>14 2007, 2008, correct?</p> <p>15 MR. BUSH: Objection.</p> <p>16 BY MR. BAKER:</p> <p>17 Q. That company being the Buzzeo company,</p> <p>18 Ron Buzzeo?</p> <p>19 A. Yeah.</p> <p>20 MR. BUSH: Objection.</p> <p>21 BY MR. BAKER:</p> <p>22 Q. Is that right?</p> <p>23 A. Yeah, I'm not sure, but I believe -- I</p> <p>24 believe that's who it was.</p>	<p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Are those people that were employed</p> <p>4 within CVS?</p> <p>5 A. They were within CVS but not in my</p> <p>6 department.</p> <p>7 Q. What department were they in?</p> <p>8 A. They were in the compliance</p> <p>9 organization.</p> <p>10 Q. It says "Tom, below are some bullets</p> <p>11 on the importance of including OV orders in</p> <p>12 the SOM algorithm."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. And OV orders are outside vendor</p> <p>16 orders, correct?</p> <p>17 MR. BUSH: Objection.</p> <p>18 BY MR. BAKER:</p> <p>19 Q. Is that what that means to you?</p> <p>20 A. That is my understanding.</p> <p>21 MR. BUSH: Objection.</p> <p>22 BY MR. BAKER:</p> <p>23 Q. Is it --</p> <p>24 A. Yes.</p>
Page 99	Page 101
<p>1 Q. Okay. And I think --</p> <p>2 A. I wasn't involved with that, but...</p> <p>3 Q. You were not involved with that?</p> <p>4 A. No.</p> <p>5 MR. BAKER: Let's go to Exhibit</p> <p>6 104, please.</p> <p>7</p> <p>8 (Exhibit No. 104 marked for</p> <p>9 identification.)</p> <p>10</p> <p>11 BY MR. BAKER:</p> <p>12 Q. Do you remember about the "Know Your</p> <p>13 Customer" requirements? We went over that --</p> <p>14 A. Yes.</p> <p>15 Q. -- with you?</p> <p>16 A. Yes.</p> <p>17 Q. Let me show you Exhibit 104.</p> <p>18 Now at the top, it says "Tom," this</p> <p>19 is a -- this is the e-mail, and again, this is</p> <p>20 Bates Number 103329. We're at Exhibit Number</p> <p>21 104.</p> <p>22 Here's the question. Do you see where</p> <p>23 it says "E-mail, Craig Schiavo, 1/18/2013 to</p> <p>24 Tom Bourque."</p>	<p>1 Q. -- your interpretation that OV orders</p> <p>2 means outside vendor orders?</p> <p>3 MR. BUSH: Objection.</p> <p>4 A. Yes.</p> <p>5 MR. BAKER: What is the</p> <p>6 objection so I can clear it up?</p> <p>7 MR. BUSH: You're asking him to</p> <p>8 look at and interpret a document he's never</p> <p>9 seen.</p> <p>10 MR. BAKER: Okay. All right.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. So what --</p> <p>13 MR. BUSH: There is no basis for</p> <p>14 that.</p> <p>15 BY MR. BAKER:</p> <p>16 Q. Tell me your interpretation, being a</p> <p>17 CVS employee, of the acronym OV as it relates</p> <p>18 to order, your interpretation of it, being an</p> <p>19 insider at -- being employed there, what does</p> <p>20 OV mean to you?</p> <p>21 A. My interpretation is outside vendor,</p> <p>22 but I have never seen this document I have,</p> <p>23 you know, I have not seen this.</p> <p>24 Q. I want you to assume that OV orders in</p>

<p style="text-align: right;">Page 102</p> <p>1 the context of this means outside vendor</p> <p>2 orders, correct?</p> <p>3 A. Correct.</p> <p>4 Q. It says, "Below are some bullets on</p> <p>5 the importance of including OV orders in the</p> <p>6 SOM algorithm."</p> <p>7 Did I state that correctly?</p> <p>8 A. Could you --</p> <p>9 Q. Did I state that document correctly?</p> <p>10 Did I state --</p> <p>11 A. Yes.</p> <p>12 Q. Do you see where it says, "Why it is</p> <p>13 needed," and it says "DEA 'Know Your Customer'</p> <p>14 requirements."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And do you see where it says,</p> <p>18 "potential issues, if not accounted for."</p> <p>19 Do you see that, in realtime below</p> <p>20 that?</p> <p>21 A. I see that on a document, yes.</p> <p>22 Q. It says, if you go up at the top, it</p> <p>23 says "DEA 'Know Your Customer' requirements,</p> <p>24 in order for dispensing data contained in the</p>	<p style="text-align: right;">Page 104</p> <p>1 That's a sentence that you just read</p> <p>2 and that I read. That's what it says,</p> <p>3 correct?</p> <p>4 A. I -- I agree with you, but the only</p> <p>5 thing I don't agree with is I'm just not sure</p> <p>6 if that's factual or not. I don't know if</p> <p>7 that's an accurate -- accurate requirement</p> <p>8 based upon this e-mail.</p> <p>9 Q. So what I'm going to ask you is if</p> <p>10 that's what the document says.</p> <p>11 A. Right.</p> <p>12 Q. Now I'm going to -- if I ask you do</p> <p>13 you know if that's the process or procedure</p> <p>14 within CVS, then that would be appropriate for</p> <p>15 you to answer that way.</p> <p>16 A. Correct.</p> <p>17 Q. Do you understand?</p> <p>18 A. Correct.</p> <p>19 Q. Does this document say "to track all</p> <p>20 NDC numbers ordered by store and have the</p> <p>21 ability to add unknown, first-time item orders</p> <p>22 into our SOM system."</p> <p>23 Does the document say that?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 103</p> <p>1 algorithm to be useful, we must account for</p> <p>2 all controlled substance orders[-D/] , to</p> <p>3 track all NDC numbers ordered by store and</p> <p>4 have the ability to add unknown, first-time</p> <p>5 item orders into our SOM system."</p> <p>6 Is that what that document says?</p> <p>7 MR. BUSH: Objection.</p> <p>8 A. I -- again, not ever seeing this</p> <p>9 document before, I -- I'm not sure what it</p> <p>10 means.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. So let me explain my question.</p> <p>13 A. Yeah.</p> <p>14 Q. All I asked you is is that what the</p> <p>15 document says. I didn't ask you if you had</p> <p>16 seen it. So is that what the document says?</p> <p>17 A. I -- I believe so.</p> <p>18 Q. So if you don't understand, you know,</p> <p>19 like you say you believe it, that's -- but</p> <p>20 let's read it together.</p> <p>21 It says "To track all NDC numbers</p> <p>22 ordered by store and have the ability to add</p> <p>23 unknown, first-time orders into our SOM</p> <p>24 system."</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Does the document say "potential</p> <p>2 issues, if not accounted for in realtime,</p> <p>3 store may order a little from both the OV and</p> <p>4 DC to stay under radar."</p> <p>5 Is that what it says?</p> <p>6 A. It does say that.</p> <p>7 Q. So stores within the CVS system were</p> <p>8 ordering from outside vendors and from the</p> <p>9 distribution center, correct?</p> <p>10 MR. BUSH: Objection.</p> <p>11 A. I don't know that factually.</p> <p>12 BY MR. BAKER:</p> <p>13 Q. Well, you just said it earlier in your</p> <p>14 deposition testimony today that that's what</p> <p>15 was -- that's what was happening, correct?</p> <p>16 A. (Witness nodding.)</p> <p>17 Q. Right?</p> <p>18 MR. BUSH: Objection.</p> <p>19 A. Right. Yes, yes.</p> <p>20 BY MR. BAKER:</p> <p>21 Q. Then we took a break for roughly 20</p> <p>22 minutes, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Then we come back on record, I ask you</p>

<p style="text-align: right;">Page 106</p> <p>1 the same question, and now all of a sudden you</p> <p>2 say you don't know.</p> <p>3 MR. BUSH: Objection.</p> <p>4 BY MR. BAKER:</p> <p>5 Q. What happened during that 20</p> <p>6 minutes?</p> <p>7 MR. BUSH: I completely object</p> <p>8 to this. You're mischaracterizing his prior</p> <p>9 testimony. You're being argumentative with</p> <p>10 him.</p> <p>11 Ask your questions and move on.</p> <p>12 BY MR. BAKER:</p> <p>13 Q. Okay. What happened during that 20</p> <p>14 minutes to change your --</p> <p>15 A. Nothing.</p> <p>16 MR. BUSH: Objection.</p> <p>17 BY MR. BAKER:</p> <p>18 Q. Go ahead.</p> <p>19 A. Nothing. Ask your question.</p> <p>20 Q. Nothing?</p> <p>21 A. Ask your question.</p> <p>22 Q. Pardon me?</p> <p>23 A. Ask your question.</p> <p>24 Q. I did ask my question.</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. "Under radar," would that be the radar</p> <p>2 of the suspicious order monitoring system?</p> <p>3 MR. BUSH: Objection.</p> <p>4 A. That, I do not know.</p> <p>5 BY MR. BAKER:</p> <p>6 Q. Is that the context of what it seems</p> <p>7 to indicate?</p> <p>8 MR. BUSH: Objection.</p> <p>9 A. I don't understand what the context</p> <p>10 would be in this case.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. And it says, "We report and OV reports</p> <p>13 an order to the DEA if the order flags in both</p> <p>14 systems."</p> <p>15 Is that what it says?</p> <p>16 That's not very good English in the</p> <p>17 sentence, but is that what the English says in</p> <p>18 that sentence?</p> <p>19 A. I am not sure.</p> <p>20 Q. Well, just read it.</p> <p>21 "We report and OV reports an order to</p> <p>22 the DEA if the order flags in both systems."</p> <p>23 Is that what that English says in that</p> <p>24 sentence?</p>
<p style="text-align: right;">Page 107</p> <p>1 What happened during that 20 minutes</p> <p>2 to change your knowledge of whether or not --</p> <p>3 A. Nothing.</p> <p>4 Q. -- CVS stores ordered from outside</p> <p>5 vendors?</p> <p>6 MR. BUSH: Objection.</p> <p>7 Mischaracterizes everything about what's going</p> <p>8 on here.</p> <p>9 BY MR. BAKER:</p> <p>10 Q. Did CVS stores order from outside</p> <p>11 vendors?</p> <p>12 A. Yes.</p> <p>13 Q. And you know that, according to this</p> <p>14 e-mail, it says "A store," which is a</p> <p>15 pharmacy, correct? CVS pharmacy?</p> <p>16 A. Correct.</p> <p>17 Q. -- "...may order a little from both</p> <p>18 outside vendor and the distribution center to</p> <p>19 stay under radar," correct?</p> <p>20 MR. BUSH: You're asking if</p> <p>21 that's what it says?</p> <p>22 BY MR. BAKER:</p> <p>23 Q. That's what it says, correct?</p> <p>24 A. That's what it says.</p>	<p style="text-align: right;">Page 109</p> <p>1 A. Report...</p> <p>2 ...to the DEA.</p> <p>3 Q. Is that what that sentence says?</p> <p>4 A. I believe so.</p> <p>5 Q. Does the next sentence say, "If we</p> <p>6 bring in OV data later in the process, we may</p> <p>7 ship a potentially reportable suspicious order</p> <p>8 from our DC."</p> <p>9 Is that what that document says?</p> <p>10 A. That's what the document says.</p> <p>11 Q. Does this document say, "Stores can</p> <p>12 place phone orders which have no visibility</p> <p>13 until a later time."</p> <p>14 Is that what that document says?</p> <p>15 A. Yes.</p> <p>16 Q. Does this document say, "Currently</p> <p>17 have a store which had a 68,000 hydrocodone</p> <p>18 pill loss and was placing phone orders to OV."</p> <p>19 Is that what that document says?</p> <p>20 A. It does. Yes.</p> <p>21 Q. So when you were the vice president in</p> <p>22 charge of logistics at CVS, were you made</p> <p>23 aware of this 68,000 hydrocodone pill loss?</p> <p>24 A. No.</p>



Page 110

1 MR. BUSH: Objection.  
2 A. No.  
3 BY MR. BAKER:  
4 Q. At any time during your employment  
5 with CVS, were you made aware of anything  
6 concerning a 68,000 hydrocodone pill loss as  
7 --  
8 A. No.  
9 Q. -- discussed in this e-mail?  
10 A. No.  
11 MR. BUSH: Objection.  
12 A. No.  
13 BY MR. BAKER:  
14 Q. No?  
15 A. No.  
16 Q. Are you aware of whether or not that  
17 was ever reported to the DEA by CVS?  
18 A. I --  
19 MR. BUSH: Objection.  
20 A. I am not aware.  
21 BY MR. BAKER:  
22 Q. If there was a 68,000 hydrocodone pill  
23 loss within the distribution chain of CVS or  
24 within one of its pharmacies, would there, to

Page 111

1 your knowledge, be an obligation of CVS to  
2 report that to the DEA?  
3 A. Yes.  
4 Q. But you're not aware of that ever  
5 being reported to the DEA?  
6 A. I am not.  
7 MR. BUSH: Objection.  
8 A. I am not aware of it.  
9 BY MR. BAKER:  
10 Q. Do you know why it would be required  
11 to be reported to the DEA?  
12 A. It's a requirement of the DEA.  
13 Q. It's the law, right?  
14 A. Right.  
15 Q. And if it wasn't reported, then CVS  
16 would have been breaking the law, correct?  
17 A. I don't know if it was or wasn't  
18 reported, so I don't know.  
19 Q. If it wasn't reported, then CVS would  
20 be breaking the law, correct?  
21 A. Correct.  
22 MR. BAKER: Let's go to Exhibit  
23 18 and Bates 25204.  
24

Page 112

1 (Exhibit No. 18 marked for  
2 identification.)  
3  
4 BY MR. BAKER:  
5 Q. You know who John Mortelliti is?  
6 A. Yes.  
7 Q. And do you know who Todd Janson is?  
8 A. Yes.  
9 Q. Who was John Mortelliti, while you  
10 were employed by CVS, within the CVS system?  
11 A. Loss prevention manager.  
12 Q. And who was Todd Janson within CVS  
13 while you were employed there?  
14 A. Loss prevention manager.  
15 Q. And Amy Brown was the DEA compliance  
16 coordinator, correct?  
17 A. Correct.  
18 Q. Now, let me show you this Exhibit 18.  
19 Is it true that before August 25 of  
20 2010 that CVS had no written suspicious order  
21 monitoring policy placed within its policies  
22 and procedures or its standard operating  
23 procedures manual?  
24 A. I am not aware of that.

Page 113

1 Q. You're not aware of the history of how  
2 it came to be?  
3 A. No.  
4 Q. Okay. Well, let me help you with  
5 that. You see this e-mail dated November  
6 2007?  
7 A. Yeah.  
8 Q. Actually, it's dated January of 2008.  
9 Do you see that? The e-mail is dated  
10 January 3 of 2008, at the top?  
11 A. This one, 2007?  
12 Q. Do you see at the top, it says  
13 January 2008. Do you see that?  
14 A. Yes, I do.  
15 Q. It's talking about CVS seventh Draft  
16 November 2007.  
17 Do you see that?  
18 A. Yes.  
19 Q. Did you know during this time there  
20 were drafts of a potential suspicious order  
21 monitoring policy being passed around within  
22 the CVS system?  
23 A. No.  
24 Q. Did you know that there was an e-mail

Page 114

1 from Amy Brown -- who is Amy Propatier,  
2 correct?  
3 I can represent to you that she is the  
4 same person.  
5 A. Yes.  
6 Q. November 27, where there is discussion  
7 about a new Rx DEA SOP.  
8 Do you see that?  
9 A. Yes.  
10 Q. Rx means prescription, correct?  
11 A. Yeah.  
12 Q. Prescription drugs?  
13 A. Yes.  
14 Q. DEA means the --  
15 A. Drug Enforcement --  
16 Q. Drug Enforcement Agency. You  
17 understand that?  
18 A. Yes.  
19 Q. SOP means standard operating  
20 procedure, correct?  
21 A. Correct.  
22 Q. So it says, here at the bottom, "We're  
23 still in the process of writing the suspicious  
24 order monitoring section of the SOP."

Page 115

1 Did you see that?  
2 A. I do see that.  
3 Q. Did you know that there was no  
4 suspicious order monitoring section of the  
5 SOP as of that date, at least as of  
6 November 27, 2007?  
7 A. I did not.  
8 Q. Did you ever read the suspicious order  
9 monitoring policy of CVS?  
10 A. I don't recall.  
11 Q. As we sit here today, can you tell me  
12 yes or no if you've ever read the suspicious  
13 order monitoring policy of CVS?  
14 MR. BUSH: Objection. Asked and  
15 answered.  
16 A. I don't recall reading the policy.  
17 BY MR. BAKER:  
18 Q. So if you don't recall reading the  
19 policy, then the answer is no, you don't  
20 recall reading the policy, correct?  
21 A. No, I don't recall reading the policy.  
22 Q. And you could not tell me what that  
23 policy says as we sit here today?  
24 A. No.

Page 116

1 Q. Right?  
2 A. No.  
3 Q. You never attended any conference  
4 where that policy was reviewed with you; is  
5 that correct?  
6 A. Correct.  
7 Q. And you never kept a copy of that  
8 policy in your office; is that correct?  
9 A. That is correct.  
10 Q. But you could have accessed it through  
11 the CVS system, correct, if you had wanted to,  
12 right?  
13 A. I'm not aware of that. I have -- I  
14 don't know it that well.  
15 Q. So let's go to the next document, if  
16 you would. Number 48.  
17  
18 (Exhibit No. 48 marked for  
19 identification.)  
20  
21 BY MR. BAKER:  
22 Q. This is Bates number 24877. This is  
23 revision date 12/11/09.  
24 You understand that what this means is

Page 117

1 that this is a copy of the policies and  
2 procedures that was the standard operating  
3 procedures manual for CVS as of 12/11/09?  
4 Do you understand that?  
5 MR. BUSH: Objection.  
6 A. Again, the first time seeing the  
7 document.  
8 BY MR. BAKER:  
9 Q. Well, let me just cover it this way.  
10 This says "CVS Distribution Center" at the  
11 top, correct?  
12 A. Correct.  
13 Q. That's you, CVS Distribution Center,  
14 correct?  
15 MR. BUSH: Objection.  
16 BY MR. BAKER:  
17 Q. Logistics, right?  
18 A. I -- I had responsibility for the  
19 distribution center, but in 2007 and in 2009  
20 when these revisions were being made, this  
21 area of responsibility did not reside within  
22 logistics.  
23 Q. Did this document, at the top, say  
24 that the effective date was 12/1/07?

Page 118

1 A. Yes.  
2 Q. Did this document say that the  
3 revision date of the document was 12/11/09?  
4 A. Yes.  
5 Q. Let me ask you to turn to page 24916  
6 of that document. I'll review it with you, if  
7 you would like. You can just look at my copy.  
8 Okay?  
9 You see where it says "Suspicious  
10 Order Monitoring, SOM."  
11 Do you see that?  
12 A. Yes, yeah.  
13 Q. We're on Bates number 24916.  
14 A. Okay.  
15 Q. Do you see that? Do you see it where  
16 it says --  
17 A. Yes.  
18 Q. -- "Suspicious Order Monitoring"?  
19 A. Yes.  
20 Q. Do you see that?  
21 A. I do.  
22 Q. Now turn over to the next page. Do  
23 you see under Paragraph B here where it says  
24 "These parameters are documented in the SOP,"

Page 119

1 then it's a blank, and it says "order quantity  
2 parameters for controlled drugs being  
3 developed and written."  
4 Do you see that?  
5 A. I do.  
6 Q. Let's go back and see what that means.  
7 All right?  
8 A. Okay.  
9 Q. Go back a page, if you would, to  
10 24916.  
11 It says "Prior to distribution, all  
12 controlled substance orders are screened and  
13 reviewed by the host system prior to being  
14 transmitted to the warehouse operating  
15 system."  
16 Do you see that?  
17 A. I do.  
18 Q. It says, "This process is performed  
19 through the application of by item and by  
20 store order quantity parameters."  
21 Do you see that?  
22 A. I do.  
23 Q. But then the next page, you see where  
24 it says, "These parameters are documented in

Page 120

1 the SOP order quantity parameters for  
2 controlled drugs being developed and written."  
3 Do you see that?  
4 A. I do.  
5 Q. So do you understand, at that point,  
6 that there really is no completed SOM policy  
7 in place, that these parameters are being --  
8 at least at that time, being developed and  
9 written?  
10 Do you understand that?  
11 MR. BUSH: Objection.  
12 A. I am not totally clear on what this is  
13 meant from the interpretation of what's being  
14 meant here.  
15 MR. BAKER: Let's go to Exhibit  
16 No. 57, please.  
17  
18 (Exhibit No. 57 marked for  
19 identification.)  
20  
21 BY MR. BAKER:  
22 Q. This is Bates number 34234. It's an  
23 e-mail that's dated Friday, April 3, 2009,  
24 from Amy Propatier.

Page 121

1 You know who Amy Propatier was at that  
2 time, correct?  
3 A. Correct.  
4 Q. She was the DEA compliance coordinator  
5 for CVS in the corporate office, correct?  
6 A. Correct.  
7 Q. It says here, "Good morning. Attached  
8 the is the DEA SOP which was implemented in  
9 December 2007. We have made some recent  
10 updates to the SOP. Please note we have  
11 updated the record retention period from five  
12 years to two years. Also, the SOM section is  
13 still not included in the SOP."  
14 Is that what that says?  
15 A. Again, first time seeing this  
16 document.  
17 (Witness reviews document.)  
18 Q. Is that what the document says?  
19 A. Yes.  
20 Q. And the document goes on to say, "In  
21 the event of an audit and the question comes  
22 up, please direct them to corporate, Frank or  
23 myself, for the explanation of the program."  
24 Do you see that?

Page 122

1 A. I do.  
2 Q. So as of April 3, 2009, according to  
3 this document, there was no suspicious order  
4 monitoring section included within the  
5 standard operating procedure of CVS, correct?  
6 A. I am, again, not clear that there was  
7 or wasn't.  
8 Q. At least that document says so, right?  
9 A. Yeah, again, you know...  
10 Q. Does the document say that?  
11 A. The document appears to say that, but  
12 I don't know that it's factual.  
13 Q. This is the DEA compliance  
14 coordinator --  
15 A. Yeah.  
16 Q. -- saying that?  
17 A. (Witness nodding.)  
18 Q. Correct?  
19 A. Yes.  
20 Q. Right?  
21 A. Yes.  
22 Q. So let me show you Exhibit 94.  
23  
24 (Exhibit No. 94 marked for

Page 123

1 identification.)  
2  
3 BY MR. BAKER:  
4 Q. This is an e-mail dated November 5,  
5 2009 from John Mortelliti. And you know him  
6 at that time to be what within -- what -- in  
7 what position?  
8 A. Loss prevention.  
9 Q. Loss prevention. And he says here, "I  
10 am trying to get a rough draft SOM SOP to you  
11 prior to the meeting. This is a big issue  
12 with CVS and the DEA."  
13 Is that what that document says?  
14 A. That's what it says.  
15 Q. Let me show you Exhibit 98, please.  
16  
17 (Exhibit No. 98 marked for  
18 identification.)  
19  
20 BY MR. BAKER:  
21 Q. This is a document dated August 23,  
22 2010 from John Mortelliti in loss prevention  
23 to Frank Devlin.  
24 Who is Frank Devlin at that time?

Page 124

1 A. He was the senior director of loss  
2 prevention.  
3 Q. So they're copying Amy Propatier, who  
4 at that time was the DEA compliance  
5 coordinator for CVS, correct?  
6 A. Correct.  
7 Q. You see where it says, "Good morning,  
8 Amy. I attached the PSE SOP in this e-mail.  
9 The control drug SOP is being reviewed by  
10 counsel. I hope to receive it back today."  
11 Do you see that?  
12 A. I do.  
13 Q. Do you know whether or not at that  
14 point the control drug SOP or the SOM,  
15 suspicious order monitoring, section of the  
16 SOP was even in effect?  
17 A. I do not.  
18 Q. Do you know?  
19 A. I do not.  
20 MR. BAKER: Let's go to Exhibit  
21 70.  
22  
23 (Exhibit No. 70 marked for  
24 identification.)

Page 125

1  
2 BY MR. BAKER:  
3 Q. If you go back to Exhibit 98. Let's  
4 go back to Exhibit 98 at the bottom.  
5 There's another e-mail that afternoon  
6 -- or that morning, August 23, and it says --  
7 from Frank Devlin to John Mortelliti, copying  
8 Amy Propatier.  
9 It says, "Good morning, John. Can you  
10 work with Amy to get the PSE, IRR and control  
11 drug IRR inserted into our DEA SOP under  
12 suspicious order monitoring? We promised it  
13 to the DEA by Wednesday."  
14 Do you see that?  
15 A. I do see that on the document.  
16 Q. Is that what the document says?  
17 A. That's what it says.  
18 Q. You know these people to be employed  
19 by CVS at the time, correct?  
20 A. Correct.  
21 Q. Within loss prevention and DEA  
22 compliance, correct?  
23 A. They were part of the loss prevention  
24 and DEA compliance, correct.

Page 126

1 Q. Did you know at this time that the DEA  
2 was in the midst of doing a visit to one of  
3 the distribution centers, the Indiana  
4 distribution center?  
5 A. I don't recall.  
6 Q. Did you know that was why this was  
7 going on, that they were trying to insert it  
8 while the DEA was there?  
9 A. No.  
10 MR. BUSH: Objection.  
11 BY MR. BAKER:  
12 Q. Let me ask you to look at No. 70.  
13 Exhibit 70. And this is an e-mail -- we're on  
14 57751, Exhibit 70.  
15 This is an e-mail from Henry (sic)  
16 Mortelliti to Greg Brantley, with a copy to  
17 Frances Devlin.  
18 Can you tell me who Greg Brantley was  
19 at that time?  
20 A. I don't remember who he was. I don't  
21 know.  
22 Q. But you explained that Mr. Mortelliti  
23 and Mr. Devlin worked with CVS, correct?  
24 A. Correct.

Page 127

1 Q. And Mr. Devlin was in what department?  
2 A. Loss prevention.  
3 Q. And Mr. Mortelliti was in what  
4 department?  
5 A. Loss prevention.  
6 Q. Loss prevention meaning what? What  
7 are they trying to prevent the loss of in your  
8 department?  
9 A. They have -- loss prevention had broad  
10 responsibilities for asset protection,  
11 buildings, you know, doing background checks.  
12 Q. Asset protection. I'm sorry.  
13 MR. BUSH: Hold on. Hold on.  
14 BY MR. BAKER:  
15 Q. Go ahead.  
16 MR. BUSH: Let him answer,  
17 please.  
18 BY MR. BAKER:  
19 Q. Go ahead.  
20 A. The distribution centers, the  
21 facilities, making sure there's no theft  
22 taking place in the buildings, in the truest  
23 sense of being a loss prevention manager.  
24 Q. This e-mail from Mr. Mortelliti to

Page 128

1 Mr. Brantley says -- regarding the control  
2 drug IRR draft, it says "This needs to be  
3 implemented as soon as possible in your area."  
4 Is that what it says?  
5 A. That's what it says, yeah.  
6 Q. Do you know what a control drug IRR  
7 is?  
8 A. I don't recall what the IRR is.  
9 Q. Now let me make sure I understand  
10 this, and you tell me what exactly, your  
11 position, just tell me the title --  
12 A. Yeah.  
13 Q. -- between 2012 until you resigned in  
14 2017. It was the vice president, correct?  
15 A. (Witness nodding.)  
16 Q. Tell me.  
17 A. Senior VP of logistics.  
18 Q. Senior vice president of logistics,  
19 correct?  
20 A. Correct.  
21 Q. And during the period from 2012 to  
22 2014, October, the suspicious order monitoring  
23 program was run under your department,  
24 correct?

Page 129

1 A. There was a transition period that  
2 took place. Prior to that, the entire SOM  
3 program was managed by loss prevention  
4 organization.  
5 Q. Right, but during 2014 it was  
6 transferred -- during 2012 it was transferred  
7 out of that department into logistics,  
8 correct?  
9 A. Correct.  
10 Q. And that's the department you were  
11 head of?  
12 A. Correct.  
13 Q. Right?  
14 A. Correct.  
15 MR. BAKER: Let's go to No. 97,  
16 please.  
17  
18 (Exhibit No. 97 marked for  
19 identification.)  
20  
21 BY MR. BAKER:  
22 Q. This is an e-mail with an attachment  
23 of a DEA SOP for suspicious order monitoring,  
24 and it's dated 8/25/10 from Amy Propatier to



Page 130

1 Annette Lamoureux.  
2 Do you see that?  
3 A. I do.  
4 Q. Do you know who Annette Lamoureux  
5 was?  
6 A. I don't recall who she was.  
7 Q. But you know at the time this e-mail  
8 was generated, 8/26/2010, that Amy Propatier  
9 was the DEA compliance coordinator for CVS in  
10 the corporate office, correct?  
11 A. Correct.  
12 Q. The corporate office was located in  
13 Woonsocket, Rhode Island?  
14 A. Correct.  
15 Q. So you see here where it says, "Can  
16 you please post. We added the suspicious  
17 order monitoring."  
18 Do you see that?  
19 A. Yes.  
20 Q. Turn to the next page of that  
21 document, at the top.  
22 A. Yes.  
23 Q. Do you see where it says, "Revision  
24 date, 8/25/10"?

Page 131

1 Do you see that?  
2 A. I do.  
3 Q. And now if you go back to the page  
4 before that, it says, "DEA SOP 8/25/10."  
5 Do you see that?  
6 A. I do.  
7 Q. So this appears to you that the  
8 suspicious order monitoring section of the  
9 policies and procedures, or the SOP, standard  
10 operating procedure for CVS was first placed  
11 into the SOP on 8/25/10 by Amy Propatier?  
12 MR. BUSH: Objection.  
13 BY MR. BAKER:  
14 Q. Is that what that looks like?  
15 MR. BUSH: Objection.  
16 A. Not clear.  
17 BY MR. BAKER:  
18 Q. Not clear?  
19 A. No.  
20 Q. Have you talked to Miss Propatier  
21 about that?  
22 A. No.  
23 Q. Have you read anything that she has  
24 testified to in this case?

Page 132

1 A. No.  
2 MR. BAKER: Let's go to Exhibit  
3 81.  
4  
5 (Exhibit No. 81 marked for  
6 identification.)  
7  
8 BY MR. BAKER:  
9 Q. What are DEA speaking points?  
10 A. Not sure.  
11 Q. Have you ever participated in an  
12 inspection by the DEA of any one of the  
13 distribution centers?  
14 A. I have not.  
15 Q. Did you know that there was a DEA  
16 inspection of the Indiana facility in 2010?  
17 MR. BUSH: Indiana -- you  
18 mean --  
19 BY MR. BAKER:  
20 Q. Indiana distribution -- did you  
21 know -- strike that question.  
22 Did you know there was a DEA  
23 inspection of the Indiana distribution center  
24 in 2010?

Page 133

1 A. I don't recall.  
2 Q. Let me show you Exhibit 81. It talks  
3 about DEA speaking points.  
4 This is John Mortelliti in loss  
5 prevention sending this to several people.  
6 Who are these people? Ron Richmond?  
7 Richard --  
8 A. Sanitate.  
9 Q. -- Sanitate. And Matthew Forster.  
10 Who are these people?  
11 A. These are individuals that worked in  
12 the distribution center.  
13 Q. Which distribution center?  
14 A. At that time, I'm not sure, but it  
15 appears that they worked in possibly New  
16 Jersey and -- I think it's New Jersey.  
17 Q. So if you look down below that, it  
18 says -- an e-mail from John Mortelliti to  
19 several people.  
20 Who are these people, September 1,  
21 2010?  
22 Maravin Jamagin. Do you know who he  
23 is?  
24 A. These were all LP individuals.

<p style="text-align: right;">Page 134</p> <p>1 Q. LP?</p> <p>2 A. Loss prevention.</p> <p>3 Q. Loss prevention people?</p> <p>4 A. Yes.</p> <p>5 Q. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. Were they in various different</p> <p>8 distribution centers, or were they all in</p> <p>9 corporate or where were they? Or do you know?</p> <p>10 A. I don't know.</p> <p>11 Q. It says "Team" -- now explain to me</p> <p>12 what team we're talking about? Is this the</p> <p>13 loss prevention team?</p> <p>14 MR. BUSH: Objection.</p> <p>15 A. I'm not clear. I'm not sure if it's</p> <p>16 interpreted as the -- I really don't know. I</p> <p>17 don't know.</p> <p>18 BY MR. BAKER:</p> <p>19 Q. But all these people worked in loss</p> <p>20 prevention, correct?</p> <p>21 A. I'm not sure.</p> <p>22 Q. At the time of this e-mail, was the</p> <p>23 SOM program part of the loss prevention</p> <p>24 department?</p>	<p style="text-align: right;">Page 136</p> <p>1 MR. BUSH: Objection.</p> <p>2 A. I -- I don't -- I don't agree with</p> <p>3 that. I'm not sure.</p> <p>4 BY MR. BAKER:</p> <p>5 Q. So if we go to page 75306, which is</p> <p>6 about the seventh page down in that document,</p> <p>7 it talks about responsibilities. It's page 7</p> <p>8 of that document.</p> <p>9 Now, the first responsibility, it says</p> <p>10 that the DC Rx, review report IRR daily,</p> <p>11 determine whether variances are within</p> <p>12 acceptable ranges.</p> <p>13 Correct?</p> <p>14 A. That's what the article -- the</p> <p>15 document says.</p> <p>16 Q. Now, this document that we're talking</p> <p>17 about, look on the front page. It's called</p> <p>18 "Suspicious Order Monitoring for PSE and</p> <p>19 Controlled Drugs, August 27, 2010," correct?</p> <p>20 A. Correct.</p> <p>21 Q. That's what the document is that we're</p> <p>22 looking at, right?</p> <p>23 MR. BUSH: Objection.</p> <p>24 BY MR. BAKER:</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Yes.</p> <p>2 Q. So it says, "Team, these are the final</p> <p>3 approved speaking points for the DEA agents if</p> <p>4 they come to one of your facilities and</p> <p>5 question suspicious monitoring. It is okay to</p> <p>6 share this document. Please be sure your team</p> <p>7 understands that before presenting it so it</p> <p>8 doesn't look like a prop instead of a tool."</p> <p>9 Is that what that document says?</p> <p>10 A. That's what it says.</p> <p>11 Q. What do you -- how would you define a</p> <p>12 prop?</p> <p>13 A. I -- I'm not sure in the context of</p> <p>14 what John is trying to -- trying to infer</p> <p>15 here, I really don't -- I don't know.</p> <p>16 Q. A prop is something that's not true,</p> <p>17 correct?</p> <p>18 MR. BUSH: Objection.</p> <p>19 A. I am not sure about that.</p> <p>20 BY MR. BAKER:</p> <p>21 Q. A prop is something like a facade.</p> <p>22 It's meant to be something that's not really</p> <p>23 true. It's just out there to try to fool</p> <p>24 somebody. Correct?</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. Is that right?</p> <p>2 MR. BUSH: He's never seen the</p> <p>3 document.</p> <p>4 MR. BAKER: That doesn't matter.</p> <p>5 I'm just asking is that what the document</p> <p>6 says.</p> <p>7 MR. BUSH: Well, that he can</p> <p>8 answer.</p> <p>9 A. That's what the document says, but</p> <p>10 this is a first time I'm seeing this document.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. Now let me make sure I understand.</p> <p>13 During the period of time that you</p> <p>14 were employed at CVS, you were never provided</p> <p>15 this document right here?</p> <p>16 A. I was never provided this document.</p> <p>17 Q. Let's look at page 7 of that document.</p> <p>18 It says, "Responsibilities: DC Rx."</p> <p>19 What is a DC Rx? Distribution center</p> <p>20 of what?</p> <p>21 A. Pharmacy.</p> <p>22 Q. Distribution center pharmacy?</p> <p>23 A. Yeah, the pharmacy area within the DC.</p> <p>24 Q. So there's a specific section within</p>

Page 138	Page 140
<p>1 the distribution center called pharmacy, 2 correct? 3 A. Correct. 4 Q. It says "Review the IRR -- review 5 report IRR," right? 6 A. That's what it says. 7 Q. Now, this is that report -- I'm 8 talking about an internal review report that I 9 asked you about earlier, correct? 10 A. Correct. 11 Q. You don't know what an IRR is, 12 correct? 13 A. I did not. At that time, I did not 14 have any visibility to the IRR report. 15 Q. Let me see if we can answer that one 16 yes or no. 17 You do not know what an IRR report is? 18 A. No. 19 Q. Correct? 20 A. Correct. 21 Q. So it says "Review IRR -- review 22 report IRR daily and determine whether 23 variances are within acceptable ranges." 24 Is that what it says?</p>	<p>1 distribution center, must review the orders of 2 PSE, EPA controlled drugs and initiate an 3 investigation," because the DC is the entity 4 that picks and distributes the product, 5 correct? 6 A. Correct. 7 Q. The DC is -- how many DCs were there 8 at the time in 2010, approximately? 9 A. 2010? 10 Q. Approximately? 11 A. It could have been ten DCs. 12 Q. And that continued to increase for -- 13 every year thereafter up until now, correct? 14 A. Yes. 15 Q. Where now we're -- we have -- there 16 are 19 distribution centers for CVS, 17 correct? 18 A. Correct. 19 Q. Go to Exhibit 97, please. We already 20 did that. 21 So let me ask you to go back to 22 Exhibit 97. Do you have that over there? 23 And this is the e-mail from Amy 24 Propatier dated 8/26/2010 where she's talking</p>
Page 139	Page 141
<p>1 A. That's what it says. 2 Q. Do you know what "variances in 3 acceptable ranges" even meant in the context 4 of an IRR? 5 A. No. 6 Q. Now, let's move to page 10 of that 7 document. 8 You see under FAQ -- frequently asked 9 questions, that's what that means, right? 10 A. Correct. 11 Q. It says, "Why is the DC responsible to 12 review suspicious orders?" 13 Do you see that question? 14 A. I do. 15 Q. And this document says, "The DC, as a 16 separate DEA registrant, is responsible for 17 products shipped from the facility." 18 Correct? 19 A. That's what it says. 20 Q. It says "The DEA regulations require 21 all distributors to report suspicious orders," 22 correct? 23 A. That's what the says, yes. 24 Q. It says "Therefore, the DC, the</p>	<p>1 about the 8/25/10 SOM being inserted into the 2 SOP. 3 Do you see that? 4 A. I do. 5 Q. Now, I want you to -- what's attached 6 to it is that CVS distribution center standard 7 operating procedures manual that's updated 8 8/25/10, correct? 9 A. Correct. 10 Q. If you go to page 88996 of that 11 document, which is CVS 88996 Bates number, 12 pull that up. 88966. 13 It's approximately 40 pages down in 14 the document. 15 At the bottom it has Roman numeral 16 VIII-VI. 17 MR. BUSH: Have you got it? 18 THE WITNESS: 966, right? 19 MR. BAKER: 996. 20 MR. BUSH: 996? 21 THE WITNESS: 996. Sorry. 22 MR. BUSH: You can use mine. 23 THE WITNESS: I've got it. 24 BY MR. BAKER:</p>

<p style="text-align: right;">Page 142</p> <p>1 Q. Now at the bottom, it says,  2 "Prevention and monitoring of controlled drug  3 and PSE suspicious orders."  4 Do you see that?  5 A. I do.  6 Q. Then it goes on to the next page,  7 where it talks about items reviewed -- No. 2,  8 the top of the next page.  9 A. Yeah.  10 Q. Highlight that whole paragraph.  11 There it says, "CVS has established  12 controlled drug order thresholds, which will  13 flag on the IRR, item review report, as well  14 as field loss prevention notice or loss  15 prevention software reports."  16 Is that what that says?  17 A. That's what the document says.  18 Q. It says, "These thresholds are the  19 primary tool to prevent stores from purchasing  20 excessive or potentially suspicious controlled  21 drug orders."  22 Is that what that says?  23 A. That's what it says.  24 Q. It says, "These thresholds are based</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. You didn't even know that that's what  2 the premise upon which the item review report  3 was based; is that correct?  4 A. That is correct.  5 Q. So let me go down to Paragraph 4  6 there. It says, "Currently the item review  7 report for controlled drugs is being reviewed  8 at a central location in New Jersey. During  9 the month of September 2010, the report will  10 be transitioned to each pharmacy DC, and the  11 following procedures will occur." Then it  12 goes on to the following procedures.  13 Do you see that?  14 A. I do.  15 Q. What I'm concerned about is those  16 first couple of sentences.  17 It says, "Currently the item review  18 report for controlled drugs is being reviewed  19 at a central location in New Jersey."  20 Do you see that?  21 A. I do.  22 Q. So this is 8/25/10 when this is --  23 this procedure is being reported, correct?  24 MR. BUSH: Objection.</p>
<p style="text-align: right;">Page 143</p> <p>1 on historical trends of sales."  2 Is that what it says?  3 A. Yes.  4 Q. It says, "Stores may order more than  5 the historical average. However, the DC may  6 not ship amounts that exceed these thresholds  7 if it is believed to be suspicious."  8 Correct?  9 A. Correct.  10 MR. BUSH: Correct meaning  11 that's what it says?  12 BY MR. BAKER:  13 Q. That's what it says, correct?  14 A. That's what it says.  15 Q. Now, you understand that this is the  16 document that you never read while you were  17 employed by CVS, correct?  18 A. Correct.  19 Q. And you didn't even know that  20 thresholds were the primary tool to prevent  21 stores from purchasing excessive or  22 potentially suspicious controlled drug orders  23 while you were employed at CVS, did you?  24 A. No.</p>	<p style="text-align: right;">Page 145</p> <p>1 BY MR. BAKER:  2 Q. When this document is dated, 8/25/10,  3 correct?  4 A. That's when the document is dated,  5 correct.  6 Q. And New Jersey, that would be  7 Lumberton, New Jersey; is that correct?  8 A. That is correct.  9 Q. Is that where John Mortelliti was  10 located?  11 A. I believe so.  12 Q. So was he doing item review reports  13 all by himself in Lumberton, New Jersey at  14 that time or not?  15 A. I don't know.  16 Q. It says, "During the month of  17 September 2010, the report will be  18 transitioned to each pharmacy DC."  19 Do you see that?  20 A. I see that on the document.  21 Q. Now, each pharmacy DC would be the  22 distribution center -- each distribution  23 center and then the pharmacy section within  24 the distribution center, correct?</p>

Page 146

1 A. Correct.

2 Q. Now, do you remember where I went over

3 the documents with you previously saying that

4 this is the responsibility of each

5 distribution center to carry out the SOM

6 process?

7 Do you remember that?

8 A. Yes.

9 Q. And that would mean each distribution

10 center had to do that, right?

11 A. Correct.

12 Q. Not one location, but each

13 distribution center, correct?

14 A. That's -- that's my understanding,

15 yes.

16 Q. So let's go to the next document,

17 No. 36.

18

19 (Exhibit No. 36 marked for

20 identification.)

21

22 BY MR. BAKER:

23 Q. This is a Bates number 12286. This is

24 an e-mail dated 12/26/11 from Paul Lawson to

Page 147

1 Joseph Scholl.

2 Do you see that?

3 A. I do.

4 Q. Who was Paul Lawson at the time of

5 this e-mail within the context of CVS?

6 A. I -- I don't -- I don't know -- I

7 don't know the individual.

8 Q. How about Joseph Scholl?

9 A. I don't know him.

10 Q. It says, "Subject: IRR bullet

11 points."

12 Do you see that?

13 A. Subject...

14 (Witness reviews document.)

15 Q. Right here, "Subject: IRR" --

16 A. Yes.

17 Q. -- "bullet points."

18 A. Yes, yes.

19 Q. And it says here, "Joe," it says, on

20 the first paragraph there, "I've attached a

21 PowerPoint presentation that we've referred to

22 in the past for the DEA." Correct?

23 A. Correct.

24 Q. Now I've shown you that PowerPoint

Page 148

1 presentation, correct?

2 A. Correct.

3 MR. BUSH: Objection.

4 BY MR. BAKER:

5 Q. It explains the role of the IRR and

6 what it is.

7 "You can extract what you think would

8 be pertinent. Let me know if this works."

9 Is that correct?

10 A. That's what the document says.

11 Q. At the bottom, if you highlight the

12 first sentence of the bottom paragraph,

13 please. It says, "The IRR is mandated by the

14 DEA, therefore, we have to adhere to this

15 monitoring policy."

16 That's what the document says,

17 correct?

18 A. That's what it says.

19 Q. Now, you remember -- you know what an

20 IRR is now because I've shown you in the

21 document, correct?

22 MR. BUSH: Well, I don't think

23 you have shown him an IRR.

24 BY MR. BAKER:

Page 149

1 Q. I've shown you the definition of an

2 IRR in the suspicious order monitoring policy

3 manual, correct?

4 A. The definition.

5 Q. The definition.

6 A. Correct.

7 Q. Today is the first time you've seen a

8 definition of an internal review report,

9 correct?

10 A. Correct.

11 Q. And today is the first time you've

12 seen this e-mail that says "The IRR is

13 mandated by the DEA, therefore, we have to

14 adhere to this monitoring policy," correct?

15 A. Correct. I've never seen this before.

16 Q. Let's go to Exhibit 67, please.

17

18 (Exhibit No. 67 marked for

19 identification.)

20

21 BY MR. BAKER:

22 Q. Now this is an e-mail -- a series of

23 e-mails, but the first one, sequentially,

24 going from the bottom to the top, correct, on



Page 150

1 this, because it starts November 11, 2012 at  
2 7:15 a.m. and then it -- up at the top, it's  
3 November 11, 2012, at 7:41 a.m. Correct?  
4 Correct?  
5 A. I agree with the dates.  
6 Q. So let's go to the first e-mail. It  
7 says, November 12 -- November 11, 2012, from  
8 Christopher Tulley to Pamela Hinkle, copy to  
9 Aaron Burtner.  
10 Who was Christopher Tulley at the  
11 time?  
12 A. He was a project manager.  
13 Q. And Pamela Hinkle?  
14 A. Worked in loss prevention.  
15 Q. Aaron Burtner?  
16 A. He was in loss prevention.  
17 Q. What was Aaron Burtner's role in loss  
18 prevention at the time?  
19 A. I think he was the loss prevention  
20 supervisor.  
21 Q. What was Pamela Hinkle's position at  
22 the time within loss prevention?  
23 A. I believe she was a loss prevention  
24 supervisor, also.

Page 151

1 Q. Let's read it. It says -- this is  
2 from Christopher Tulley, dated November 11,  
3 2012 to Pamela Hinkle.  
4 It says, "Hi guys. I met with John A.  
5 and Ellen on Friday. They advised when this  
6 program was initially designed, it was meant  
7 for the review that Aaron does to be done in  
8 all eleven DCs. Do you know why and when it  
9 was consolidated to just one DC doing the  
10 review?"  
11 Is that what that document says?  
12 A. That's what the document says.  
13 Q. So in November 2012, at this point the  
14 program -- the suspicious order monitoring  
15 program was consolidated into one distribution  
16 center, correct, to your knowledge?  
17 MR. BUSH: Objection.  
18 A. (Witness reviews document.)  
19 I don't recall the exact date. I -- I  
20 don't recall.  
21 BY MR. BAKER:  
22 Q. And would that be in Indiana that it  
23 was being done in 2012?  
24 A. Correct.

Page 152

1 Q. And that was the -- one of  
2 distribution centers over which you were the  
3 head, correct?  
4 A. Correct.  
5 Q. Next. Let's go to Exhibit No. 90.  
6  
7 (Exhibit No. 90 marked for  
8 identification.)  
9  
10 BY MR. BAKER:  
11 Q. Exhibit No. 90 is Bates number 83367.  
12 Now, this is -- look at the bottom. It talks  
13 about a conference call that's to occur  
14 Friday, September 24, 2010.  
15 Do you see that?  
16 A. I do see that on the document.  
17 Q. It says -- about midway down, it says,  
18 "The purpose of this call is to meet DEA  
19 compliance for suspicious order monitoring."  
20 Correct?  
21 A. Correct.  
22 Q. It says, "Friday, 9/24, logistics will  
23 be briefed on the IRR process. All DCs have  
24 confirmed that IRR is available."

Page 153

1 And then it says, "Monday, 9/27 to  
2 10/1, all DCs will begin reviewing the IRRs  
3 and reporting any questions to the LP manager  
4 or John Mortelliti."  
5 Correct?  
6 A. That's what -- that's what the e-mail  
7 says, correct.  
8 Q. So it appears, at least from this  
9 e-mail, that all DCs began reviewing the IRRs  
10 on a DC-by-DC basis,  
11 distribution-center-by-distribution-center  
12 basis, inside each distribution center  
13 separately in late September, early October  
14 2010, correct?  
15 MR. BUSH: Objection.  
16 BY MR. BAKER:  
17 Q. Is that what it looks like?  
18 MR. BUSH: Objection.  
19 A. I -- I am not sure that the way that  
20 this is written is accurate or it's clear to  
21 me. I really don't know.  
22 BY MR. BAKER:  
23 Q. Where were the IRRs being reviewed  
24 during that time? Do you know?

Page 154

1 A. I don't.  
2 Q. Do you know when it was moved out of  
3 the DCs into one central location that we're  
4 talking about?  
5 A. I do not know the exact date, no.  
6 Q. Do you know why it was done that way?  
7 A. I am not -- I don't.  
8 Q. Go back to Exhibit 90, please. And go  
9 to Paragraph 10 -- I mean to Slide No. 10.  
10 It's on Bates No. 83377.  
11 It says there that "The DC, as a  
12 separate DEA registrant, is responsible for  
13 products shipped from the facility."  
14 And then the question is, "Why is the  
15 DC responsible to review the suspicious  
16 orders?"  
17 Do you see that?  
18 A. I see that on the document.  
19 Q. But at some point, this became a  
20 centralized program, not a DC-to-DC program,  
21 correct?  
22 A. Correct.  
23 Q. And you don't know why that became; is  
24 that right?

Page 155

1 A. I don't -- I don't recall.  
2 Q. Let's go to Exhibit 67, please. You  
3 see where on Exhibit 67, it says on  
4 November 11, 2012, it says -- go ahead and  
5 skip up a little bit if you would, where it  
6 says "Hi, guys" -- it starts with "Hi, guys."  
7 Bring that up.  
8 It says, "I met with John A. and Ellen  
9 on Friday. They advised when this program was  
10 initially designed, it was meant for the  
11 review that Aaron does to be done in all  
12 eleven DCs."  
13 That's what it says, right?  
14 A. That's what the document says.  
15 MR. BAKER: Let's go to Document  
16 71.  
17  
18 (Exhibit No. 71 marked for  
19 identification.)  
20  
21 BY MR. BAKER:  
22 Q. Exhibit 71. It should just be two  
23 pages.  
24 This is an e-mail, March 4, 2011. You

Page 156

1 see here where it says, "The IRR process has  
2 been shifted to our Knoxville DC with the LP  
3 analyst position."  
4 Do you see that?  
5 A. I see that on the document, yes.  
6 Q. Are you aware of whether or not CVS  
7 shifted the SOM program out of the DC-to-DC  
8 basis into Knoxville as a centralized location  
9 at this point?  
10 A. I do not. I do not.  
11 Q. Is that what it appears to you from  
12 reading this?  
13 A. Actually, I am not sure.  
14 MR. BUSH: Objection.  
15 A. I am not sure. I'm not clear on that.  
16 BY MR. BAKER:  
17 Q. Now, below that, there's an e-mail  
18 dated March 10, 2011. And it says, "Hi, John,  
19 and all our SOM DEA controlled drug experts."  
20 Do you see that?  
21 A. I do.  
22 Q. It says, "As part of retunement of the  
23 IRR SOM program, we're going to need to  
24 maintain a list of all controlled drugs with

Page 157

1 their active ingredients, milligrams, et  
2 cetera."  
3 Is that what that says?  
4 A. That's what it says.  
5 Q. I'm going to get to that in a little  
6 while, but I want you to remember that. Can  
7 you remember that for me?  
8 A. Yeah.  
9 MR. BAKER: Let's go to the next  
10 document, Number 43.  
11  
12 (Exhibit No. 43 marked for  
13 identification.)  
14  
15 BY MR. BAKER:  
16 Q. When the first written suspicious  
17 order monitoring policy was inserted into the  
18 CVS SOP in August of 2010, CVS used a computer  
19 software program written by an outside company  
20 called Cegedim, which was Ron Buzzeo's  
21 company, correct?  
22 A. I believe so, yes.  
23 Q. Now, you know that -- from reading the  
24 prior documents, that it's the responsibility

<p style="text-align: right;">Page 158</p> <p>1 of the registrant, which is the licensee, to  2 design and implement a suspicious order  3 monitoring program, correct?  4 A. Correct.  5 Q. It's a nondelegable duty, correct?  6 A. Correct.  7 Q. You understand that this company is  8 somebody to whom it appears, at least partway,  9 CVS is trying to help them develop some sort  10 of program; is that right?  11 A. It -- it appears to be, yes.  12 Q. And you're not aware of any such  13 program being developed by CVS at any time  14 before 2007, 2008, are you?  15 A. Before 2007, 2008, no.  16 Q. CVS had no suspicious order monitoring  17 program before 2008, did they?  18 MR. BUSH: Objection.  19 A. Well, I believe -- no. We had a  20 monitoring program in place before 2008.  21 BY MR. BAKER:  22 Q. There was no -- no computer-generated  23 suspicious order monitoring program where you  24 could do a historical analysis with before</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. Down at the bottom of 22043. It says,  2 "In December 2008, CCS delivered an initial  3 SOM model to CVS, which CVS integrated into  4 the order management process."  5 Do you see that?  6 MR. BUSH: So there's two  7 numbering systems here, and they're one --  8 wait a second. What's going on here?  9 MR. BAKER: Okay.  10 MR. BUSH: I see it. Is it the  11 first page of the -- is that it?  12 MR. BAKER: Correct.  13 MR. BUSH: There are two  14 numberings on here. Then the next page has 43  15 again.  16 MR. BAKER: Again, these are the  17 way CVS --  18 MR. BUSH: No, I understand.  19 MR. BAKER: I'll try to stay  20 consistent with the top number.  21 MR. BUSH: The top number, okay.  22 The bold number?  23 MR. BAKER: Yes, sir, I will.  24 BY MR. BAKER:</p>
<p style="text-align: right;">Page 159</p> <p>1 2008, correct?  2 MR. BUSH: Objection.  3 A. I'm not sure.  4 BY MR. BAKER:  5 Q. You don't know?  6 A. I don't know.  7 Q. Right?  8 A. I don't know.  9 Q. All right. So this was the first  10 time, at least we see, where there is some  11 sort of history as to what went on with the  12 program. This -- if you turn to the fourth  13 page of that document, it talks about -- at  14 22043.  15 Do you see that?  16 MR. BUSH: I don't know which  17 document you're talking about. We don't have  18 it.  19 MR. BAKER: Exhibit 43. I'm  20 sorry.  21 MR. BUSH: Thank you. And this  22 is Exhibit 43?  23 MR. BAKER: Right.  24 BY MR. BAKER:</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. So we're looking at the top number,  2 22043 Bates.  3 Do you see that?  4 A. Yes.  5 Q. And it says here, it says, "In  6 December 2008, CCS delivered an initial SOM  7 model to CVS which CVS integrated into their  8 order management process."  9 Do you see that?  10 A. I do see it on the document.  11 Q. Do you know what the order management  12 process meant?  13 A. No.  14 Q. Do you know that that had to do with  15 the pharmacy order management process?  16 MR. BUSH: Objection.  17 A. I do not.  18 BY MR. BAKER:  19 Q. Go to the next page. It says, "Recap  20 Of Model Design."  21 Do you see that?  22 A. I do.  23 Q. The first sentence says, "The SOM  24 model that has been developed and recommended</p>

<p style="text-align: right;">Page 162</p> <p>1 by Cegedim Compliance Solutions," and that's  2 CCS, "has been designed to pend an order which  3 may be classified as a suspicious order for  4 DEA reporting purposes."  5 Is that what the document says?  6 A. That's what the document says,  7 correct.  8 Q. You know what a suspicious order  9 orders is because you've seen the definition  10 of it, correct?  11 A. Correct.  12 Q. Go to the next page. Under -- at the  13 bottom of Paragraph 1, it says -- it's  14 underlined. It says, "The model has been  15 designed so that any order with a score of .15  16 or higher is identified as a suspicious pended  17 and should be investigated further."  18 Do you see that? Is that what the  19 document says?  20 A. That's what the document says.  21 Q. Are you aware what the word  22 "algorithm" means?  23 A. Well, my interpretation of an  24 algorithm is some type of a mathematical</p>	<p style="text-align: right;">Page 164</p> <p>1 the SOM system within logistics and the senior  2 vice president of logistics at CVS, did you  3 try to get familiar with the SOM  4 algorithm-based program?  5 A. I had no need to, you know, and,  6 again, my primary reason not to was I had a  7 team of people that were directly accountable  8 within logistics and outside of logistics.  9 Q. Right. But you're head of logistics  10 and you're not even checking with them and in  11 the midst of an opioid crisis to find out what  12 the algorithm-based program is?  13 MR. BUSH: Objection.  14 A. Again, there was no need for me. I  15 did not need to get to that level of detail.  16 BY MR. BAKER:  17 Q. Even though you knew there was an  18 opioid crisis killing over 16,000 people a  19 year?  20 A. I -- I didn't know that there were  21 16,000 -- that's a fact that I did not know at  22 that time.  23 Q. But you know now?  24 MR. BUSH: Objection.</p>
<p style="text-align: right;">Page 163</p> <p>1 model.  2 Q. And that's what this was, was an  3 algorithm based on a mathematical model,  4 correct?  5 MR. BUSH: Objection.  6 BY MR. BAKER:  7 Q. To your knowledge?  8 MR. BUSH: Objection.  9 A. Again, I had no responsibility for  10 this tool and I spent no time understanding  11 it. It was solely the responsibility of the  12 loss prevention organization. They owned  13 this -- owned this at that time.  14 BY MR. BAKER:  15 Q. At any time when you became the owner  16 of the SOM program within CVS --  17 A. Right.  18 Q. -- did you review any of the  19 algorithms being implemented in the SOM  20 system?  21 A. No.  22 Q. Okay.  23 A. No.  24 Q. At any time when you were the owner of</p>	<p style="text-align: right;">Page 165</p> <p>1 A. I do know now.  2 BY MR. BAKER:  3 Q. Had you known that then, do you think  4 you would you have gotten more involved with  5 understanding the system?  6 A. I probably would not have gotten into  7 the algorithm detail. There would have no  8 need for me to do that.  9 Q. Would you have gotten a little bit  10 more involved in the SOM system had you known  11 that -- the extent of the deaths that were  12 going on with opioids being supplied into the  13 United States system?  14 MR. BUSH: Objection.  15 A. Again, in my role, I had broad  16 logistics responsibility and I had a team of  17 people that were subject matter experts on  18 this, you know, and that was -- you know, my  19 role was to make sure I had the right people,  20 you know, being part of this -- part of this  21 process.  22 BY MR. BAKER:  23 Q. Let's go to Exhibit 102.  24 Let's go to Exhibit 106.</p>

<p style="text-align: right;">Page 166</p> <p>1</p> <p>2</p> <p>3 (Exhibit No. 106 marked for</p> <p>4 identification.)</p> <p>5</p> <p>6 BY MR. BAKER:</p> <p>7 Q. In 2012, was the SOM program under the</p> <p>8 department of logistics of which you were the</p> <p>9 head of the department of logistics at that</p> <p>10 time?</p> <p>11 A. I believe that was the timing, yes.</p> <p>12 Q. This is an e-mail dated November 27,</p> <p>13 2012 from Craig Schiavo to Aaron Burtner.</p> <p>14 Craig Schiavo, at the time, was whom?</p> <p>15 A. He was a manager in the compliance --</p> <p>16 the regulatory compliance area.</p> <p>17 Q. And Aaron Burtner was whom within the</p> <p>18 context of CVS?</p> <p>19 A. I do not recall his role.</p> <p>20 Q. Who are all these people on here?</p> <p>21 What were their roles. Christopher Tulley,</p> <p>22 Tom Bourque, Dean Vanelli, Judy Hughes, Mark</p> <p>23 Nicastro, Pamela Hinkle. What are their</p> <p>24 roles?</p>	<p style="text-align: right;">Page 168</p> <p>1 29868. It says, "Actions to be taken to</p> <p>2 enhance CVS process."</p> <p>3 Do you see that?</p> <p>4 A. I see it on the document, correct.</p> <p>5 Q. It says, "Current algorithm</p> <p>6 enhancements to algorithm. Create new</p> <p>7 algorithm. Review our contract with Buzzeo.</p> <p>8 Were they fired?"</p> <p>9 Do you see that?</p> <p>10 A. I see it on the document.</p> <p>11 Q. At that point, was there a move to try</p> <p>12 to hire another company to enhance the SOM</p> <p>13 system?</p> <p>14 A. I don't recall. And this is the first</p> <p>15 time I've seen this document, so...</p> <p>16 Q. Are you -- are you aware of what</p> <p>17 problems were being encountered with attempted</p> <p>18 implementation of the SOM system using the</p> <p>19 CCS-based software program?</p> <p>20 A. I -- I am not aware of any issues with</p> <p>21 the -- with that program.</p> <p>22 Q. Under Paragraph 1(b)(3), it says, "We</p> <p>23 need to understand what criteria the algorithm</p> <p>24 looks at and ensure it complies with DEA</p>
<p style="text-align: right;">Page 167</p> <p>1 A. Chris was a project manager. Tom</p> <p>2 Bourque worked in compliance. Dean worked in</p> <p>3 the logistics planning area. Judy was the VP</p> <p>4 of loss prevention. And Mark was the director</p> <p>5 of the Indianapolis facility. And Pam was, I</p> <p>6 believe, at that time, in loss prevention.</p> <p>7 Q. The attachment, the subject of the</p> <p>8 meeting is SOM meeting 11/17/of 2012, correct?</p> <p>9 A. Appears --</p> <p>10 Q. Yes?</p> <p>11 A. -- to be, yes.</p> <p>12 Q. It says, "I tried to put down some</p> <p>13 process requirements we should think about</p> <p>14 when enhancing our SOM system processes that</p> <p>15 we may be able to use as a guide for this</p> <p>16 morning's meeting."</p> <p>17 Correct?</p> <p>18 MR. BUSH: You mean correct,</p> <p>19 that's what it says?</p> <p>20 BY MR. BAKER:</p> <p>21 Q. That's what it says, correct?</p> <p>22 A. That's what the document says,</p> <p>23 correct.</p> <p>24 Q. Go to the next page. We're on Bates</p>	<p style="text-align: right;">Page 169</p> <p>1 regulations by monitoring each store's order</p> <p>2 of unusual size, orders deviating</p> <p>3 substantially from a normal pattern, and</p> <p>4 orders of unusual frequency."</p> <p>5 Correct?</p> <p>6 A. That's what the document says.</p> <p>7 Q. It says, "Each store should have its</p> <p>8 own purchases monitored separately based on</p> <p>9 their purchasing patterns to identify orders</p> <p>10 deviating from its normal buying pattern and</p> <p>11 to identify orders of unusual frequency."</p> <p>12 Is that what it says?</p> <p>13 A. That's what it says.</p> <p>14 Q. Go to the next page. Under the last</p> <p>15 bullet, under Paragraph B, it says, "If an</p> <p>16 order" -- the last bullet under Paragraph B.</p> <p>17 MR. BUSH: Wait a second. Check</p> <p>18 mark?</p> <p>19 THE WITNESS: Yeah.</p> <p>20 MR. BUSH: Okay.</p> <p>21 BY MR. BAKER:</p> <p>22 Q. Yes, check mark. It says, "If an</p> <p>23 order is flagged, it should not be cut to a</p> <p>24 smaller quantity in order to be below a</p>



Page 170

1 threshold and shipped. Orders should be all  
2 (sic) is shipped if cleared or nothing is  
3 shipped."

4 Is that what it says?

5 A. That's what the document says.

6 Q. Now, the English is not grammatically  
7 correct in that second sentence, but it says,  
8 "Orders should be all is shipped if cleared or  
9 nothing is shipped," correct?

10 A. That's what it says.

11 Q. Let me talk about that sentence above  
12 it.

13 "If an order is flagged, it should not  
14 be cut to a smaller quantity in order to be  
15 below a threshold and shipped."

16 That's what that document says?

17 A. That's what it says.

18 Q. Do you know if that was ever done by  
19 anybody in the review process, if they ever  
20 saw what might be a suspicious order and just  
21 simply cut the order down a bit to bring it  
22 within the threshold as opposed to identifying  
23 it as a suspicious order and reporting it to  
24 the DEA? Do you know if that ever occurred?

Page 171

1 A. I do not.

2 Q. Do you know how many times that may  
3 have occurred in the IRR process?

4 MR. BUSH: Objection.

5 A. I have no knowledge of it whatsoever.

6 MR. BAKER: Let's go to 107,  
7 please.

8

9 (Exhibit No. 107 marked for  
10 identification.)

11

12 MR. BUSH: 107.

13 BY MR. BAKER:

14 Q. Are you familiar with taking into  
15 account populations of where pills are being  
16 distributed by CVS distribution centers to CVS  
17 pharmacies?

18 A. No.

19 Q. Does population have anything to do  
20 with what might be considered a threshold of  
21 what should be shipped to that particular  
22 store, or do you know?

23 A. I don't know. I don't know.

24 Q. Let me show you Exhibit No. 107. This

Page 172

1 is an e-mail dated 5/5/14 from Mark Nicastro  
2 to William Jusko.

3 Do you see that?

4 A. I do.

5 Q. It's a DEA closing audit.

6 Let me ask you something. Do you know  
7 what a DEA closing audit is?

8 A. Yes.

9 Q. What is it?

10 A. It's the final review discussion based  
11 upon an audit that took place.

12 Q. And "audit" means when they come do an  
13 inspection, the DEA shows up?

14 A. Right.

15 Q. And these inspections are supposed to  
16 be not tipped off, but they're supposed to be  
17 unannounced, correct?

18 A. Correct.

19 Q. And this is one that took place in the  
20 Indiana distribution center; am I correct? Or  
21 do you know?

22 A. Again, first time seeing the document.  
23 I'm not sure.

24 Q. It's okay. It says, "DEA

Page 173

1 investigators Dan Gillen and Andrew Ratcliff  
2 set up our closing meeting today with Betsy  
3 Ferguson. Betsy was here, as well as Pamela  
4 Hinkle."

5 Correct?

6 A. That's what it says.

7 Q. Betsy Ferguson was CVS's lawyer; is  
8 that right?

9 A. That is correct.

10 Q. And it talks about, under the third  
11 paragraph here, it says, "Number 5" -- well,  
12 above that, it says, "All four were considered  
13 infractions and they can be worked -- and they  
14 would work with us to remedy them."

15 But then it says "No. 5," it says,  
16 "Failure to maintain an SOM program."

17 Do you see that?

18 A. That's what it says on the document.

19 Q. So the DEA was saying to your company  
20 on the closing audit that your company was  
21 failing to maintain an SOM program, correct?

22 MR. BUSH: Objection.

23 A. I am -- I'm not -- I am not clear on  
24 that. I'm not aware of that.

Page 174	Page 176
<p>1 BY MR. BAKER:</p> <p>2 Q. The DEA, according to Mark Nicastro,</p> <p>3 told CVS in the DEA closing audit that there</p> <p>4 was a failure to maintain an SOM program,</p> <p>5 correct?</p> <p>6 MR. BUSH: Objection.</p> <p>7 A. I'm not clear on whether that -- what</p> <p>8 was meant by this.</p> <p>9 BY MR. BAKER:</p> <p>10 Q. Well, let's try to be extremely clear,</p> <p>11 using plain English that's not at all</p> <p>12 ambiguous whatsoever. Okay?</p> <p>13 A. Okay.</p> <p>14 Q. I want to be very clear, as clear as</p> <p>15 crystal to you. Okay?</p> <p>16 A. Yeah.</p> <p>17 Q. So let's read, word for word, what</p> <p>18 this says.</p> <p>19 "5/15/2014, 5:45 p.m., DEA closing</p> <p>20 audit," at the top.</p> <p>21 Do you see those words?</p> <p>22 Do you see it right here?</p> <p>23 A. Yes.</p> <p>24 Q. Do you see where it says, "DEA</p>	<p>1 report cross his desk from CVS about a</p> <p>2 suspicious order in the three years that he</p> <p>3 has been here."</p> <p>4 Correct?</p> <p>5 A. That's what the e-mail says.</p> <p>6 MR. BAKER: Let's go off the</p> <p>7 record for just a second.</p> <p>8 THE VIDEOGRAPHER: The time is</p> <p>9 11:47 a.m., and we're off the record.</p> <p>10</p> <p>11 (Off the record from 11:47 a.m.</p> <p>12 to 11:49 a.m.)</p> <p>13</p> <p>14 THE VIDEOGRAPHER: The time is</p> <p>15 11:49 a.m., and we're on the record.</p> <p>16</p> <p>17 BY MR. BAKER:</p> <p>18 Q. You see Exhibit 129 in front of you?</p> <p>19 A. I do.</p> <p>20 Q. This is an e-mail from Dan Gillen.</p> <p>21 Now you know who Dan Gillen is because</p> <p>22 you just saw that he is a DEA investigator,</p> <p>23 correct?</p> <p>24 MR. BUSH: Objection.</p>
Page 175	Page 177
<p>1 investigators Dan Gillen and Andrew Ratcliff</p> <p>2 set up a closing meeting for today with Betsy</p> <p>3 Feguson. Betsy was here as well as Pamela</p> <p>4 Hinkle."</p> <p>5 Is that clear?</p> <p>6 A. It's clear.</p> <p>7 Q. It says, "They cited five issues."</p> <p>8 Is that clear?</p> <p>9 A. Yes.</p> <p>10 Q. And the fifth issue, "Number 5,</p> <p>11 Failure to maintain an SOM program,"</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. So does that appear to you in plain</p> <p>15 English that the DEA investigator said that</p> <p>16 there was a failure to maintain an SOM</p> <p>17 program? Yes or no?</p> <p>18 A. Based upon the way this is written,</p> <p>19 yes.</p> <p>20 Q. And then it goes on to state, "Dan</p> <p>21 Gillen recited the exact same thing he has</p> <p>22 been saying since day one. They see a lot of</p> <p>23 pills going through CVS in small towns and it</p> <p>24 has to be excessive, yet he has never seen a</p>	<p>1 A. Yes.</p> <p>2 BY MR. BAKER:</p> <p>3 Q. Let me ask you something. Did the</p> <p>4 e-mail that I showed you before now indicate</p> <p>5 who Dan Gillen was?</p> <p>6 A. I believe it did.</p> <p>7 Q. And it indicated to you that he was a</p> <p>8 DEA investigator, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. So it says, from Dan Gillen to</p> <p>11 Mark Nicastro, 11/25/2013.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And that says, "CVS Store No. 06880</p> <p>15 and 6757."</p> <p>16 Do you know where those are located?</p> <p>17 A. I do not.</p> <p>18 Q. This says "Mark" -- now, this is Mark</p> <p>19 Nicastro, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And he's in the Indiana DC at the</p> <p>22 time, correct?</p> <p>23 A. Correct.</p> <p>24 Q. It says, "CVS Store No. 06880 ordered</p>

Page 178

1 1,886,600 dosage units of hydrocodone,  
2 Drug Code No. 9193, between January 1, 2012  
3 and October 2013."  
4 Correct?  
5 A. That's what the article says -- the  
6 e-mail says.  
7 Q. And it says, "...of which, 1,766,000  
8 tablets of hydrocodone were shipped from your  
9 facility."  
10 Correct?  
11 A. That's what it says.  
12 Q. "The pharmacy is located in Vincennes,  
13 Indiana with a population of approximately  
14 18,000."  
15 Correct?  
16 A. That's what the e-mail says, correct.  
17 Q. Do you have any idea why there would  
18 be a need to supply that many hydrocodone  
19 pills to a town that had only 18,000 people?  
20 A. I have no idea.  
21 Q. Would that be considered excessive in  
22 the way of supply compared to population?  
23 MR. BUSH: Objection.  
24 A. I don't know.

Page 179

1 BY MR. BAKER:  
2 Q. You don't know?  
3 You can't divide 1,886,600 into 18,000  
4 over a period of that months -- that many  
5 months, which is 18 months, and tell me  
6 whether or not you think that's excessive for  
7 every man, woman, and child in that particular  
8 location?  
9 MR. BUSH: Objection.  
10 A. Again, I don't have an opinion on -- I  
11 don't know what's going on in the market. I  
12 don't know. I don't know.  
13 BY MR. BAKER:  
14 Q. How many other pharmacies are located  
15 in that city?  
16 A. I have no idea.  
17 Q. How many other pharmacies were selling  
18 hydrocodone in that city?  
19 A. I have no idea.  
20 Q. Why would there be a need to send that  
21 many pills into a CVS pharmacy over that  
22 period of time for sale to the public in a  
23 population of 18,000 people?  
24 A. I don't know.

Page 180

1 Q. Your suspicious order monitoring  
2 system did not pick this up and report it as a  
3 suspicious order, did it?  
4 MR. BUSH: Objection.  
5 A. I am not aware that it did or didn't.  
6 BY MR. BAKER:  
7 Q. You're not aware of this being  
8 reported as a suspicious order, are you?  
9 A. I have -- this is the first time I'm  
10 seeing this document; first time I'm made  
11 aware of it.  
12 Q. Look at the next sentence. It says,  
13 "Additionally, CVS Store No. 6757, located in  
14 Columbus, Indiana, ordered a total of  
15 2,012,400 tablets, of which your facility  
16 provided 1,756,300 tablets from January 1,  
17 2012 through October 2013. The population of  
18 Columbus, Indiana is approximately 45,000."  
19 Do you see that?  
20 A. I see it on the document, yeah.  
21 Q. Was this reported as a suspicious  
22 order in any of these orders -- strike the  
23 question.  
24 Were any of the orders from the CVS

Page 181

1 distribution center that supplied this store  
2 during that period of time reported as  
3 suspicious by CVS to the DEA?  
4 A. I don't know.  
5 MR. BUSH: Objection.  
6 A. I don't know.  
7 BY MR. BAKER:  
8 Q. Do you know why there would be any  
9 justification for sending that many pills to a  
10 town that had that small of a population --  
11 MR. BUSH: Objection.  
12 Q. -- over that period of time?  
13 A. I --  
14 MR. BUSH: Objection.  
15 A. I don't have an opinion. I don't  
16 know.  
17 BY MR. BAKER:  
18 Q. Can you justify that at all from the  
19 standpoint of CVS sending that many pills from  
20 a distribution center to its pharmacies over  
21 that period of time in a population of a town  
22 that has only 45,000 people?  
23 MR. BUSH: Objection.  
24 A. I can't -- I can't defend or disagree

Page 182

1 with it. I really don't know.  
 2 BY MR. BAKER:  
 3 Q. You don't know?  
 4 A. No.  
 5 Q. It could be diversion? You just don't  
 6 know, correct?  
 7 A. I don't know.  
 8 Q. The same thing with respect to the top  
 9 order by the top store there, where they're  
 10 sending one- -- almost 1.9 million dosages  
 11 over a period of 18 months to a population of  
 12 18,000. That could be diversion, you just  
 13 don't know?  
 14 MR. BUSH: Objection.  
 15 BY MR. BAKER:  
 16 Q. Correct.  
 17 Is that right?  
 18 MR. BUSH: Objection.  
 19 A. Again, I have -- I have no -- no  
 20 knowledge of, you know, I have no idea.  
 21 BY MR. BAKER:  
 22 Q. Was any of this picked up -- any of  
 23 the orders for these opioids picked up within  
 24 the CVS monitoring system and reported to the

Page 183

1 DEA as a suspicious order?  
 2 MR. BUSH: Objection.  
 3 A. I have no knowledge of that. I don't  
 4 know.  
 5 BY MR. BAKER:  
 6 Q. It says, "Both stores have purchased a  
 7 large quantity of hydrocodone, given their  
 8 population."  
 9 Do you see that?  
 10 A. I see it on the document.  
 11 Q. You have no reason to disagree with  
 12 that statement, do you?  
 13 MR. BUSH: Objection.  
 14 A. It's -- I -- I don't have an opinion.  
 15 It's just -- it's a fact -- a point made by  
 16 Dan. I just -- I really don't know whether  
 17 it's exorbitant or not, honestly.  
 18 BY MR. BAKER:  
 19 Q. So let me ask you, just agree or  
 20 disagree -- you have no reason to disagree  
 21 with this statement: "Both stores have  
 22 purchased a large quantity of hydrocodone,  
 23 given their population."  
 24 You have no reason to disagree with

Page 184

1 that statement; is that correct?  
 2 MR. BUSH: Objection.  
 3 A. I really don't know. I mean, I don't  
 4 know whether it's an exorbitant amount or not.  
 5 I mean, it's -- again -- again, if you  
 6 want to ask the question a little bit  
 7 differently, I'll try to respond, but I'm not  
 8 clear.  
 9 BY MR. BAKER:  
 10 Q. Let's see if you can answer this  
 11 question. Do you disagree with that  
 12 statement? Yes or no?  
 13 A. I have no basis of agreeing or  
 14 disagreeing. Again, I don't know how factual  
 15 it is. If the -- it's possible that the data  
 16 might be wrong. I have no idea.  
 17 Q. Have you gone back and checked that  
 18 data?  
 19 A. I have --  
 20 MR. BUSH: Objection.  
 21 A. I have not -- I was not involved with  
 22 that. I have no visibility to it.  
 23 BY MR. BAKER:  
 24 Q. Do you doubt the efficacy of that

Page 185

1 data?  
 2 MR. BUSH: Objection.  
 3 A. I don't know.  
 4 BY MR. BAKER:  
 5 Q. Have you ever checked ARCOS data to  
 6 see how much is being distributed by the  
 7 distribution centers to those two stores  
 8 during that period of time?  
 9 A. I did not.  
 10 MR. BUSH: Objection.  
 11 BY MR. BAKER:  
 12 Q. Do you know what ARCOS data is?  
 13 A. I was not close enough to it, no.  
 14 Q. Do you know what ARCOS data is? Yes  
 15 or no?  
 16 A. No.  
 17 Q. During the entire time that you were  
 18 employed at CVS, you had no idea what ARCOS  
 19 data is, correct?  
 20 A. I did not have to be directly involved  
 21 in looking at the data or managing the data in  
 22 my role.  
 23 Q. I simply asked did you know what ARCOS  
 24 data was. I didn't ask you if you managed it.

Page 186	Page 188
<p>1 A. I don't remember what it was.</p> <p>2 Q. Do you know what ARCOS even is?</p> <p>3 A. Yeah, I just know it's a report,</p> <p>4 that's all.</p> <p>5 Q. Do you know who generates that report?</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you know what the report is for?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you know what it reports?</p> <p>10 A. I don't -- I don't recall.</p> <p>11 Q. I want to make sure I understand.</p> <p>12 From 2012 to 2014 -- actually, from</p> <p>13 2012 to 2017, you were the senior vice</p> <p>14 president of logistics, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And during that period of time, the</p> <p>17 suspicious order monitoring system program for</p> <p>18 narcotics was under the logistics department,</p> <p>19 correct?</p> <p>20 A. It was part of the logistics</p> <p>21 organization, correct.</p> <p>22 Q. As we sit here today in 2018, you have</p> <p>23 no idea what "ARCOS" means, correct?</p> <p>24 A. I don't recall -- I can't tell you</p>	<p>1 Q. Do you see what's before you is</p> <p>2 Exhibit No. 34, which is -- it starts with</p> <p>3 Bates 10529 and goes through Bates No. 10532?</p> <p>4 Do you see that?</p> <p>5 A. I do see that.</p> <p>6 Q. I'll represent to you that these are</p> <p>7 written notes from the person employed by CVS</p> <p>8 who would send these to somebody who then</p> <p>9 makes up a final written report.</p> <p>10 Do you understand that?</p> <p>11 MR. BUSH: He's just asking.</p> <p>12 A. Yes, yes.</p> <p>13 BY MR. BAKER:</p> <p>14 Q. So you see here under 51414, do you</p> <p>15 see that where it says "No. 5," it says,</p> <p>16 "Failure to design and control suspicious</p> <p>17 monitoring."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Do you see the words next to it, it</p> <p>21 says "Most serious"?</p> <p>22 A. I see it on the document, yeah.</p> <p>23 Q. Go to the third page of those written</p> <p>24 notes. Do you see at the top, it says "SOM"?</p>
Page 187	Page 189
<p>1 exactly what the ARCOS report is.</p> <p>2 Q. Let me just ask you, do you know what</p> <p>3 ARCOS means? Yes or no?</p> <p>4 A. No.</p> <p>5 Q. And I know you say you don't know</p> <p>6 exactly what it is. You don't know at all</p> <p>7 what it is; is that correct?</p> <p>8 A. Correct.</p> <p>9 MR. BAKER: Could you pull</p> <p>10 No. 34, please.</p> <p>11</p> <p>12 (Exhibit No. 34 marked for</p> <p>13 identification.)</p> <p>14</p> <p>15 BY MR. BAKER:</p> <p>16 Q. Do you remember how we talked about</p> <p>17 that inspection of the facility in Indiana was</p> <p>18 occurring?</p> <p>19 Do you remember that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember how that closing</p> <p>22 e-mail was generated in May of '14?</p> <p>23 Do you remember that?</p> <p>24 A. Yes.</p>	<p>1 A. SOM.</p> <p>2 Q. You see here --</p> <p>3 MR. BUSH: The last page of the</p> <p>4 document?</p> <p>5 MR. BAKER: Yes, it is.</p> <p>6 BY MR. BAKER:</p> <p>7 Q. Do you see where it says "QTY,</p> <p>8 quantity going out is concerning."</p> <p>9 Do you see that?</p> <p>10 A. I do see that.</p> <p>11 Q. That's consistent with the e-mail that</p> <p>12 you saw where Dan Gillen reported to your</p> <p>13 people at CVS that the quantity going out to</p> <p>14 these small towns was concerning, correct?</p> <p>15 MR. BUSH: Objection.</p> <p>16 BY MR. BAKER:</p> <p>17 Q. Is that right?</p> <p>18 A. Yes.</p> <p>19 MR. BAKER: Let's go to Exhibit</p> <p>20 103.</p> <p>21</p> <p>22 (Exhibit No. 103 marked for</p> <p>23 identification.)</p> <p>24</p>



Page 190

1 MR. BAKER: May I see that,  
2 please, sir.  
3 BY MR. BAKER:  
4 Q. This is an e-mail about the closing  
5 remarks, and it's -- again, you know what  
6 closing remarks -- DEA closing remarks are,  
7 correct?  
8 A. I do.  
9 Q. That's after there's a DEA inspection,  
10 there's a closing, and then there's closing  
11 remarks in this e-mail that's reported within  
12 the CVS system, correct?  
13 A. Correct.  
14 Q. So Andy Eck was who at the time,  
15 May 15, 2014?  
16 A. I do not know Andy Eck.  
17 Q. But he's sending it to Mr. Mortelliti,  
18 who's in loss prevention; Mr. Brian Morrison,  
19 who is director of loss prevention, and to  
20 Jerome Carrey, who is whom?  
21 A. I don't recall.  
22 Q. He's also sending it to Andrew Peck,  
23 who is whom?  
24 A. Don't know.

Page 191

1 Q. Andy Eck, we know he's the person  
2 sending it. Pamela Hinkle, who is --  
3 A. Loss prevention.  
4 Q. Mark Nicastro, who is the director of  
5 the distribution center where this took place,  
6 correct?  
7 A. Correct.  
8 Q. Which was Indiana, correct?  
9 A. Correct.  
10 Q. And it says, "Brian and John, we had a  
11 DEA visit back in August 2013. Today,  
12 May 15, 2014, Dan Gillen, Supervisor, and  
13 Andrew Ratcliff, Investigator, came in Indy to  
14 do their closing."  
15 Do you see that?  
16 A. I do.  
17 Q. Under No. 5, Bullet Point No. 5, do  
18 you see that, "suspicious order monitoring,"  
19 at the bottom?  
20 A. I see it on the document, yes.  
21 Q. It says, "DEA thought this process was  
22 not sufficient under suspicious order  
23 monitoring."  
24 Correct?

Page 192

1 A. That's what it says.  
2 Q. That's consistent with what was  
3 reported in the e-mail that I've shown you  
4 with respect to that, correct?  
5 MR. BUSH: Objection.  
6 A. Correct.  
7 BY MR. BAKER:  
8 Q. Yes?  
9 A. Yes.  
10 Q. It says, "Questions on the number of  
11 inventory that leaves our facility."  
12 Do you see that?  
13 A. I do.  
14 Q. That's consistent with what I just  
15 showed you relative to there being a question  
16 about the shipment of millions of pills to  
17 small towns and small populations, correct?  
18 MR. BUSH: Objection.  
19 BY MR. BAKER:  
20 Q. Is that?  
21 MR. BUSH: Objection.  
22 BY MR. BAKER:  
23 Q. Is it consistent with that?  
24 MR. BUSH: Objection.

Page 193

1 BY MR. BAKER:  
2 Q. Yes or no?  
3 A. I'm just --  
4 BY MR. BAKER:  
5 Q. I mean, in plain English, is that  
6 consistent?  
7 A. My question is in reference to  
8 inventory. Whether they're referencing  
9 something else here, I'm not too sure.  
10 Q. Well, what inventory do you  
11 suspiciously order-monitor other than  
12 narcotics?  
13 MR. BUSH: Objection.  
14 BY MR. BAKER:  
15 Q. What?  
16 A. I'm just reading again. Just give  
17 me...  
18 Q. Why would the DEA be concerned with  
19 any inventory but narcotics? Right?  
20 A. Yeah.  
21 Q. So this deals with narcotics, right?  
22 A. Correct.  
23 Q. The question on the number of  
24 inventory that leaves our facility, correct?

Page 194

1 A. Correct.

2 Q. And that's consistent with the e-mails

3 that I showed you relative to the dosages

4 being sent to these small towns with small

5 populations, correct?

6 MR. BUSH: Objection.

7 BY MR. BAKER:

8 Q. Yes?

9 A. It appears, yes.

10 Q. And then you go to the next bullet

11 point, on the next page, "There's concern that

12 their office did not receive any communication

13 of suspicious ordering in the last three

14 years."

15 MR. BUSH: Objection.

16 BY MR. BAKER:

17 Q. Right?

18 MR. BUSH: Objection. I'm

19 sorry.

20 A. That's what the document says.

21 BY MR. BAKER:

22 Q. So none of those orders that we talked

23 about, even those orders that went to these

24 small towns, were reported by CVS to the DEA

Page 195

1 during that three-year period, correct?

2 MR. BUSH: Objection.

3 A. I'm not sure.

4 BY MR. BAKER:

5 Q. Well, that's consistent with --

6 A. Yeah, yeah.

7 Q. -- what was said, correct?

8 A. Yeah --

9 MR. BUSH: Objection.

10 A. -- it says that on the document. But,

11 again, I'm not sure that that's -- that's

12 factual or not, but that's...

13 BY MR. BAKER:

14 Q. Well, when you put those documents

15 together as I've laid them out to you, it's

16 consistent with the premise that CVS did not

17 report any of those as suspicious orders to

18 the DEA, any of those orders that were sent

19 out during that three-year period to anybody

20 at any town, correct?

21 MR. BUSH: Objection.

22 A. I'm not clear. I'm not sure. I'm not

23 sure.

24 BY MR. BAKER:

Page 196

1 Q. Well, read it. It says, "Concerned

2 that their office did not receive any

3 communication of suspicious ordering in the

4 last three years."

5 "Concerned that their office," that's

6 the DEA, correct?

7 A. (Witness nodding.)

8 Q. Yes?

9 MR. BUSH: Objection.

10 A. Yeah.

11 BY MR. BAKER:

12 Q. "Did not receive," meaning that they

13 didn't get, right?

14 A. (Witness nodding.)

15 MR. BUSH: Objection.

16 BY MR. BAKER:

17 Q. Right?

18 A. (Witness nodding.)

19 Q. Right or wrong?

20 MR. BUSH: Objection.

21 BY MR. BAKER:

22 Q. They did not receive, right?

23 A. Yes.

24 Q. "Any." You understand the word "any"?

Page 197

1 A. I do.

2 Q. "Communication." You understand what

3 "communicate" means, right?

4 A. Uh-huh.

5 Q. "Of suspicious ordering." You know

6 what "suspicious ordering" is, right?

7 A. Yes.

8 Q. "In the past" -- "in the last three

9 years." You understand what the period of

10 three years is, correct?

11 A. I do.

12 Q. And you understand that when you

13 looked at those e-mails that dealt with the

14 distribution of the quantity of pills that was

15 reflected going into the small towns with

16 these populations that that's consistent with

17 this sentence right here, correct?

18 A. It appears to be, yes.

19 MR. BUSH: Objection.

20 A. Yes.

21 BY MR. BAKER:

22 Q. It appears to be? Yes?

23 A. Yes.

24 Q. Now, from the slides that I showed you

Page 198

1 from the DEA about the number of deaths that  
2 were occurring in 2010, 2011, 2012, 2013, this  
3 is the same three-year period that we're  
4 talking about here in this e-mail, correct?  
5 A. Okay, yes.  
6 Q. The opioid crisis was increasing at  
7 that time, correct?  
8 MR. BUSH: Objection.  
9 BY MR. BAKER:  
10 Q. According to those slides, correct?  
11 A. According to the slides, yeah.  
12 MR. BAKER: Let me show you  
13 Exhibit No. 19 -- 119.  
14  
15 (Exhibit No. 119 marked for  
16 identification.)  
17  
18 BY MR. BAKER:  
19 Q. And go to -- well, first of all, what  
20 you have in front of you is "Suspicious Order  
21 Monitoring Training of CVS," correct?  
22 It's Bates number 106514, correct?  
23 A. Correct.  
24 Q. This is a CVS document, correct?

Page 199

1 A. Yes.  
2 Q. Yes?  
3 A. Yes.  
4 Q. Have you ever seen this document  
5 before today?  
6 A. I have not.  
7 Q. It appears to be a training manual for  
8 CVS employees, does it not?  
9 A. It appears to be.  
10 Q. Go to page 1. You have it right in  
11 your hand there.  
12 A. Yeah.  
13 Q. Go to page one of that manual.  
14 A. Yeah.  
15 Q. The very next page. You have the  
16 chart. That's what I want.  
17 It says, "Prescription drug abuse is  
18 an epidemic."  
19 Correct?  
20 A. Correct.  
21 Q. It says, "More people die from abuse  
22 of prescription drugs than heroin and cocaine  
23 combined."  
24 Right?

Page 200

1 A. Correct.  
2 Q. And it shows you, that top line,  
3 "Opioid analgesics," and it talks about -- it  
4 graphs the number of people that are dying per  
5 year from opioid analgesics, that top line,  
6 correct?  
7 A. Correct.  
8 Q. It's well -- well exceeds that of  
9 people that die from cocaine abuse, correct?  
10 A. Correct.  
11 Q. It well exceeds that of people that  
12 die from heroin abuse, correct?  
13 A. Correct.  
14 Q. And you see that the numbers are  
15 increasing every single year, right?  
16 A. Correct.  
17 Q. So this is something that CVS was  
18 using to train their employees about the  
19 opioid epidemic, correct?  
20 A. It appears to be, yes. First time...  
21 Q. But you never -- okay, go ahead.  
22 A. I have not seen this document.  
23 MR. BAKER: Let's move on.  
24 It is 12:10 right now. It's probably

Page 201

1 appropriate to break for lunch, if you would  
2 like to.  
3 MR. BUSH: Let's go off the  
4 record?  
5 MR. BAKER: Yes, let's go off  
6 the record.  
7 THE VIDEOGRAPHER: The time is  
8 12:07 p.m. We're off the record.  
9  
10 (Recess taken from 12:07 p.m.  
11 to 12:24 p.m.)  
12  
13 THE VIDEOGRAPHER: The time is  
14 12:24 p.m., and we're on the record.  
15 BY MR. BAKER:  
16 Q. Do you remember on Exhibit No. 43  
17 where I was showing you the model, the  
18 algorithm model that had been developed for  
19 usage and had a model that had been designed  
20 that said any order with a score of .15 or  
21 higher would be identified as a suspicious  
22 pended order? Do you remember that?  
23 MR. BUSH: Can you show him that  
24 again?

Page 202

1 A. I think it's right here.  
2 BY MR. BAKER:  
3 Q. Do you remember that?  
4 A. I do remember seeing that on the -- on  
5 the document, yes.  
6 Q. Now, do you know whether or not that  
7 algorithm was ever tweaked by CVS?  
8 A. I do not.  
9 Q. Do you know whether it was ever  
10 manipulated by CVS?  
11 A. I do not.  
12 Q. Let me show you -- do you know if that  
13 algorithm was ever manipulated by CVS?  
14 A. I do not.  
15 MR. BAKER: Let me show you  
16 what's marked as Exhibit No. 95.  
17  
18 (Exhibit No. 95 marked for  
19 identification.)  
20  
21 BY MR. BAKER:  
22 Q. This is a Bates number 88523 through  
23 88524, and coupled with that is Bates number  
24 88734 through 88737.

Page 203

1 Do you see those?  
2 A. I do.  
3 Q. Let's go through and look -- let's  
4 look at that first e-mail. Do you see that?  
5 It's dated July 26, 2010.  
6 A. I do.  
7 Q. It says ".65 is where we are now. .7  
8 looks a bit more realistic, but I still want  
9 to view data."  
10 Do you see that?  
11 A. I do see it on the document.  
12 Q. This is John Mortelliti sending this  
13 to Robert Williamson on July 26, 2010. Do you  
14 see that?  
15 A. I do.  
16 Q. Now, you understand the program,  
17 according to the document, was meant to  
18 trigger at .15, correct?  
19 A. Yes.  
20 MR. BUSH: Objection.  
21 A. Yes.  
22 BY MR. BAKER:  
23 Q. At this point, it's being bumped up to  
24 .65 and they're contemplating .70 according to

Page 204

1 this e-mail, right?  
2 A. I am not sure. I'm not sure. I'm not  
3 sure.  
4 Q. Let's go to the second page there.  
5 June 30, 2010, at the bottom.  
6 A. Okay.  
7 Q. It says "Bob, I will be reviewing the  
8 data for the next few weeks and testing some  
9 of the pending items with field loss  
10 prevention. I'm going to focus on the .15  
11 score for starters. Once I determine an  
12 acceptable score, I will get in touch with you  
13 and Jonathan for feedback."  
14 Do you see that?  
15 A. Yes, that's what it says.  
16 Q. This is John Mortelliti, right?  
17 A. Yes.  
18 Q. This is while John Mortelliti is in  
19 Lumberton, New Jersey, by himself, correct?  
20 Do you remember?  
21 MR. BUSH: Objection.  
22 BY MR. BAKER:  
23 Q. Is that right?  
24 MR. BUSH: Objection.

Page 205

1 A. Well, John is in -- John works out of  
2 Lumberton, correct.  
3 BY MR. BAKER:  
4 Q. This is when John Mortelliti was in  
5 Lumberton, right?  
6 A. What's the date? I believe he was.  
7 Q. Do you remember where the suspicious  
8 order monitoring program document that was put  
9 into the SOP 8/25/10 said that the SOM was  
10 being conducted out of Lumberton, New Jersey,  
11 out of one DC?  
12 A. Yes.  
13 Q. That was John Mortelliti, right?  
14 A. I believe so.  
15 Q. He was doing it by himself, wasn't  
16 he?  
17 MR. BUSH: Objection.  
18 A. I'm not sure if he -- if it was only  
19 him.  
20 BY MR. BUSH:  
21 Q. Well, who else would he have had, if  
22 anybody?  
23 MR. BUSH: Objection.  
24 A. Potentially other people as part of

Page 206

1 loss prevention organization.  
2 BY MR. BAKER:  
3 Q. But you don't know that, do you?  
4 A. I don't know that.  
5 MR. BUSH: Objection.  
6 BY MR. BAKER:  
7 Q. But you see here where he says "I'm  
8 going to focus on .15 for starters," but once  
9 he determines an acceptable score, he will get  
10 in touch with whoever and Jonathan for  
11 feedback. Do you see that?  
12 A. That's what it says.  
13 Q. So it sounds like he's going to  
14 increase the score, correct?  
15 MR. BUSH: Objection.  
16 BY MR. BAKER:  
17 Q. Above .15, right?  
18 A. It appears that way, but I'm not too  
19 sure that -- again, this is the first time  
20 I've seen the document, so I really don't  
21 know, yeah.  
22 BY MR. BAKER:  
23 Q. So look at the one dated July 26,  
24 2010. Do you see that one? Bates number

Page 207

1 88734 at the bottom?  
2 A. I do.  
3 Q. It says "I don't want to waste money  
4 doing a retune if we don't need one."  
5 Do you see that? John Mortelliti.  
6 MR. BUSH: I'm sorry, I'm --  
7 I've lost you. Where are you?  
8 MR. BAKER: Right here. Right  
9 here.  
10 BY MR. BAKER:  
11 Q. "I don't want to waste money doing a  
12 retune if we don't need one." Correct?  
13 A. I see that.  
14 Q. He's talking about the program that  
15 he's changing from a .15 score up to .65  
16 score, correct?  
17 A. It appears to be that, but I'm not 100  
18 percent sure.  
19 Q. So go back to that e-mail that we  
20 talked about at the -- the very first page.  
21 It says ".65 is where we are now and  
22 .7 looks a bit more realistic, but I still  
23 want to view data."  
24 Do you see that?

Page 208

1 A. I do.  
2 Q. Now, then go to the second page of  
3 that second series of e-mails, where there's a  
4 response to that.  
5 MR. BUSH: I'm sorry, guys. I  
6 think I've lost a couple of pages.  
7 THE WITNESS: You might have  
8 given a page back.  
9 MR. BUSH: I may have given that  
10 back to you and I shouldn't have. I think  
11 I've -- I thought it was a copy of what I  
12 already had.  
13 Thank you.  
14 MR. BAKER: Let me start from  
15 scratch. Okay?  
16 MR. BUSH: No, you don't have to  
17 start from scratch.  
18 BY MR. BAKER:  
19 Q. Go to the e-mail where it says ".65 is  
20 where we are now. .7 looks a bit more  
21 realistic, but I want to view data."  
22 This is July 26, 2010 at 1:56 p.m.,  
23 John Mortelliti to Robert Williamson,  
24 correct?

Page 209

1 A. Correct.  
2 Q. Now, go to the response, and it's the  
3 second page of those series of e-mails. It's  
4 88735 Bates, July 26, 2010 at 2:31 p.m.,  
5 Robert Williamson to John Mortelliti, right?  
6 A. Correct.  
7 Q. John Williamson is with the company  
8 Cegedim, or C-e-g-e-d-i-m, CCS, basically,  
9 correct?  
10 A. Right.  
11 Q. And he's telling John Mortelliti in a  
12 response, "That's quite a departure from the  
13 initial threshold." Right?  
14 A. That's what the document says,  
15 correct.  
16 Q. And the initial threshold was .15,  
17 according to the documents, right?  
18 A. Correct. Correct.  
19 Q. So it had been manipulated up from .15  
20 to .65 by your company, correct?  
21 MR. BUSH: Objection.  
22 A. I'm not clear that it was actually  
23 implemented. I mean, it appears to me more of  
24 a discussion, but I'm not too sure that it was



Page 210

1 actually implemented. That's what's not clear  
2 to me.  
3 BY MR. BAKER:  
4 Q. So if Mr. Mortelliti testifies that he  
5 manipulated it up to .65, you would have no  
6 reason to disagree with that, right?  
7 A. I would have no reason to, no.  
8 Q. And if the SOM program that was  
9 written by CCS had been manipulated up from  
10 .15 to .65, it would be less sensitive for  
11 pending orders that could be suspicious,  
12 correct?  
13 MR. BUSH: Objection.  
14 A. Again, I'm not -- I'm not sure what  
15 the -- what that deviation would mean  
16 ultimately to the algorithm.  
17 I don't know if that's significant  
18 enough or -- I don't know. I don't know the  
19 significance of it.  
20 BY MR. BAKER:  
21 Q. If raising the pended-to-order score  
22 on the algorithm from .15 to .65 made the  
23 program less sensitive to identifying  
24 potential suspicious orders, that would make

Page 211

1 the program itself less sensitive, correct?  
2 MR. BUSH: Objection.  
3 A. In principle. But, again, I'm not too  
4 sure that that changed the order of magnitude  
5 of impact on the algorithm.  
6 So, again, I'm not close enough to it.  
7 But I -- I don't know -- I don't know for  
8 sure.  
9 BY MR. BAKER:  
10 Q. But it's over three times what the  
11 system was initially designed for, correct, if  
12 it's .65?  
13 A. Correct.  
14 Q. Right?  
15 A. Correct.  
16 Q. If it's .70, that's even worse, right?  
17 A. Correct.  
18 MR. BUSH: Objection.  
19 A. Correct.  
20 BY MR. BAKER:  
21 Q. How about the program itself? This is  
22 the program that was in place during that  
23 period of time where, from 2010 to 2013, out  
24 of the Indiana facility there was no reporting

Page 212

1 of any suspicious orders, correct?  
2 A. I'm not aware.  
3 MR. BUSH: Objection.  
4 A. I'm not aware.  
5 BY MR. BAKER:  
6 Q. You're not aware of if that program  
7 was in place or not?  
8 A. I know the program was in place, but  
9 you said -- could you ask your question again?  
10 Q. Okay. This program that we're talking  
11 about from CCS that talks about --  
12 A. Yeah.  
13 Q. -- an initial pended .15 in the  
14 algorithm that had been raised to .65 --  
15 A. Yeah.  
16 Q. -- this is the one that was in use at  
17 the Indiana distribution center between 2010  
18 and 2013, correct?  
19 A. Correct.  
20 MR. BUSH: Objection.  
21 BY MR. BAKER:  
22 Q. Right?  
23 A. Correct.  
24 Q. And that's the one, once raised from

Page 213

1 .15 to .65, resulted in no suspicious orders  
2 being reported out of the Indiana facility for  
3 three consecutive years, right?  
4 MR. BUSH: Objection.  
5 A. I am not aware whether there were or  
6 weren't anything reported, and I'm not sure  
7 that -- again, I'm not sure that the number  
8 was actually raised to that number.  
9 So, again, I -- I mean, I did not have  
10 direct, you know, I was -- I wasn't involved  
11 with that, so I can't really tell you that the  
12 algorithms were changed. I don't know.  
13 BY MR. BAKER:  
14 Q. If there was an algorithm-based  
15 suspicious orders software program that was  
16 being implemented for the purpose of the  
17 suspicious order monitoring system --  
18 A. Correct.  
19 Q. -- would you, as the director of  
20 logistics during the period of time that  
21 suspicious order monitoring was under your  
22 camp, would you have wanted to know that  
23 somebody was manipulating the algorithm up to  
24 three times more than what the initial

Page 214

1 threshold was called for?  
2 Would you want to know that?  
3 A. Not sure. Again, there were --  
4 there -- again, this was not part of my  
5 department. You know, this -- this -- there  
6 was an organization that had accountability  
7 for it.  
8 Again, my role, I had a very broad  
9 role within CVS logistics. So it was  
10 definitely not brought to my attention. I was  
11 not aware of it.  
12 Q. You said this is not your department.  
13 This is part of the suspicious order  
14 monitoring program, right?  
15 A. Right.  
16 Q. And you're head of the suspicious  
17 order monitoring program -- suspicious order  
18 monitoring program from 2012 to 2017, right?  
19 A. We're talking 2010 here.  
20 Q. But you're head, from 2012 to 2017, of  
21 the SOM program?  
22 A. Correct.  
23 Q. Right?  
24 A. Correct.

Page 215

1 Q. So as head of the SOM program at CVS,  
2 during the period that you were that head --  
3 A. Correct.  
4 Q. -- 2012, 2013, 2014, would you want to  
5 know what was being done with the algorithm  
6 and how it was designed --  
7 A. No.  
8 Q. -- and what it was ordered to do --  
9 A. No.  
10 Q. -- with respect to what --  
11 A. I --  
12 Q. -- what -- let me finish --  
13 A. Yes.  
14 Q. -- with respect to what number the  
15 algorithm would flag at and what it was  
16 designed to flag at; would you want to know  
17 that?  
18 A. I did not need to know that.  
19 Q. As head of the system, you wouldn't --  
20 you wouldn't want to know that?  
21 MR. BUSH: Objection.  
22 Q. As head of the SOM program, you  
23 wouldn't --  
24 MR. BUSH: Objection.

Page 216

1 A. I had people that were directly  
2 accountable for that program, along with  
3 people outside of our department that managed  
4 that.  
5 BY MR. BAKER:  
6 Q. Do you understand that it's a  
7 nondelegable duty to the licensee insofar as  
8 DEA compliance? Do you understand that?  
9 A. I do.  
10 Q. Do you understand that you are the  
11 head of the department that has a nondelegable  
12 duty to report to the DEA? Do you understand  
13 that?  
14 A. Yes.  
15 Q. Do you understand that as head, that  
16 you should be informed of what's going on with  
17 respect to these algorithms?  
18 MR. BUSH: Objection.  
19 A. I was not informed of any changes to  
20 the algorithms.  
21 BY MR. BAKER:  
22 Q. Would you expect to be informed of the  
23 change in the algorithms, since you're the  
24 head of the SOM program?

Page 217

1 MR. BUSH: Objection.  
2 A. I'm not sure. Again, I'm not -- I'm  
3 not or was not close enough to it to know  
4 whether or not I needed to be informed of  
5 those types of changes.  
6 MR. BAKER: Let's go to Exhibit  
7 60.  
8 Let's go to Exhibit 55.  
9  
10 (Exhibit No. 55 marked for  
11 identification.)  
12  
13 BY MR. BAKER:  
14 Q. This is a business idea description  
15 within CVS pharmacy. Do you see that?  
16 A. I do.  
17 Q. CVS Pharmacy is a department within  
18 the distribution center that deals with  
19 suspicious order monitoring, correct?  
20 A. Correct.  
21 Q. And this is when John Mortelliti was  
22 employed there, correct?  
23 A. Correct.  
24 Q. And it says under "Summary of

Page 218	Page 220
<p>1 description and objectives," it says "DEA 2 expects CVS to prevent suspicious orders from 3 being filled out of our DCs. The current IRR 4 does not provide the proper information to 5 meet the DEA's needs." 6 Did you know that? 7 A. No. 8 Q. You know what an IRR is now, right? 9 A. Yes. 10 Q. You didn't know before today what an 11 IRR was, correct? 12 A. Correct. 13 Q. And you didn't know before today that 14 the current IRR that they were using at the 15 time did not provide the proper information to 16 meet the DEA's needs, did you? 17 MR. BUSH: Objection. 18 BY MR. BAKER: 19 Q. You didn't know that, did you? 20 MR. BUSH: Objection. 21 A. No. 22 BY MR. BAKER: 23 Q. And it says here, "We need controlled 24 drugs to be monitored by active ingredient."</p>	<p>1 Q. Do you know what "hydrocodone 2 combination product" means? 3 A. It's a combination of Tylenol and/or 4 hydrocodone included in the drug. 5 Q. And you know that the hydrocodone 6 combination products include things like 7 Vicodin, Lortab, that sort of thing? 8 A. Not to that detail, but I understand, 9 yeah, yeah. 10 Q. It says "The IRR loses all history 11 when the info on the item changes, causing CVS 12 to be noncompliant with DEA's expectations." 13 Isn't that what that says? 14 A. That's what it says. 15 Q. So did anybody bring this to your 16 attention that the IRR loses all history when 17 the info on the item changes, causing CVS to 18 be noncompliant with the DEA expectations? 19 A. No, they did not. 20 Q. Now. Let's take the history at this 21 point. During 2012 to 2017 -- 22 A. Right. 23 Q. -- you, Ron Link, are the senior vice 24 president of logistics, correct?</p>
Page 219	Page 221
<p>1 Isn't that what it says? 2 A. That's what the document says. 3 Q. Do you know what "active ingredient" 4 means? 5 A. Not really, no. 6 Q. Would you have to guess in order to 7 try to determine what that means? 8 A. Yeah, and I wouldn't want to. 9 Q. It says "Currently, the controlled 10 drugs are monitored by item." 11 Do you know what "by item" means in 12 terms of controlled drugs? 13 A. By SKU, just by -- my interpretation 14 of that is, later, that by item, the actual 15 SKU or the product itself. 16 Q. Give me an example in the context of a 17 hydrocodone combination product, what you mean 18 by a SKU. 19 A. It would be, you know, an item would 20 be a hydrocortisone (sic) -- 21 Q. Hydrocodone? 22 A. Hydrocodone, exactly. 23 Q. Hydrocodone combination product? 24 A. Exactly.</p>	<p>1 A. Correct. 2 Q. You, Ron Link, during that time frame 3 were in charge of -- you were the senior 4 person over the department that was in charge 5 of suspicious order monitoring, correct? 6 A. Correct. 7 Q. And nobody brought to your attention 8 that the system being used for the IRR was not 9 DEA compliant, correct? 10 A. Correct. 11 Q. But this document sure says so, 12 doesn't it? 13 MR. BUSH: We don't know the 14 date of this document. 15 BY MR. BAKER: 16 Q. Doesn't it? 17 A. It states that. And I also was 18 looking and I don't see the date on this 19 document either. So... 20 Q. Well, we know the IRR was first 21 implemented in the August 25, 2010 SOM that 22 was added to the SOP, correct? 23 MR. BUSH: Objection. 24 BY MR. BAKER:</p>

Page 222	Page 224
<p>1 Q. Right?</p> <p>2 MR. BUSH: Objection.</p> <p>3 BY MR. BAKER:</p> <p>4 Q. Is that right?</p> <p>5 MR. BUSH: I'm going to keep on</p> <p>6 objecting because --</p> <p>7 MR. BAKER: You can object.</p> <p>8 That's fine. I don't mind you objecting.</p> <p>9 BY MR. BAKER:</p> <p>10 Q. Go ahead.</p> <p>11 A. What was the question again?</p> <p>12 Q. You saw the IRR was first defined in</p> <p>13 the 8/25/10 suspicious order monitoring</p> <p>14 addition to the SOP P&amp;P, correct?</p> <p>15 MR. BUSH: Objection.</p> <p>16 BY MR. BAKER:</p> <p>17 Q. You saw that, right?</p> <p>18 A. I believe so.</p> <p>19 MR. BUSH: Objection.</p> <p>20 MR. BAKER: Let's go to Exhibit</p> <p>21 82.</p> <p>22</p> <p>23 (Exhibit No. 82 marked for</p> <p>24 identification.)</p>	<p>1 was that the system cannot match historical</p> <p>2 data to an item if the manufacturer changes</p> <p>3 the name of the item."</p> <p>4 Is that what it says?</p> <p>5 A. That's what the e-mail says, correct.</p> <p>6 Q. And it says "Todd can forward you the</p> <p>7 e-mail. Example, hydro 5 milligrams can be</p> <p>8 changed to hydro milligram 5. The same item,</p> <p>9 just put the five in front of milligram. The</p> <p>10 system cannot match this item because of the</p> <p>11 change, therefore, loses historical data.</p> <p>12 This is why you are seeing zero for historic</p> <p>13 ordering usually in LAG 3 to 6."</p> <p>14 Isn't that what it says?</p> <p>15 A. That's what it says.</p> <p>16 Q. So it appears there's a problem with</p> <p>17 not reporting the item properly to be able to</p> <p>18 get historical data by virtue of not using</p> <p>19 active ingredient to describe the item. Is</p> <p>20 that what it looks like to you?</p> <p>21 MR. BUSH: Objection.</p> <p>22 A. I'm not clear about that. I'm not</p> <p>23 sure. I'm not sure.</p> <p>24 BY MR. BAKER:</p>
Page 223	Page 225
<p>1</p> <p>2 MR. BAKER: Let me see that</p> <p>3 back, please.</p> <p>4 BY MR. BAKER:</p> <p>5 Q. Exhibit 82 is an e-mail dated</p> <p>6 10/12/2010 from John Mortelliti to various</p> <p>7 people, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And it says "Todd, I sent you an</p> <p>10 e-mail about two weeks ago explaining why I am</p> <p>11 handling the controlled drug IRR for the time</p> <p>12 being."</p> <p>13 Correct?</p> <p>14 A. That's what it says.</p> <p>15 Q. Was anybody else handling it at that</p> <p>16 time, other than John Mortelliti, to your</p> <p>17 knowledge?</p> <p>18 A. I'm not aware of it. I don't know.</p> <p>19 Q. It says "Dean, this is a rewrite we</p> <p>20 are trying to get approved for the controlled</p> <p>21 drug IRR. The current report shows controlled</p> <p>22 drugs by item instead of active ingredient,</p> <p>23 such as PSE. We thought this would be a great</p> <p>24 idea at the time, but we found out -- found</p>	<p>1 Q. Well, let's see if we can clear it up.</p> <p>2 It says "The current report shows</p> <p>3 controlled drugs by item instead of active</p> <p>4 ingredient."</p> <p>5 Correct?</p> <p>6 A. Correct.</p> <p>7 Q. And I've shown you the prior document,</p> <p>8 Document No. 55 --</p> <p>9 A. Yeah.</p> <p>10 Q. -- that we just went over that said</p> <p>11 "The IRR loses all order history info when the</p> <p>12 item changes, causing CVS to be noncompliant."</p> <p>13 And in that document, it also said</p> <p>14 that it did not provide -- that "we need</p> <p>15 controlled drugs to be monitored by active</p> <p>16 ingredient."</p> <p>17 A. Correct.</p> <p>18 Q. You see that?</p> <p>19 A. Correct, yeah.</p> <p>20 Q. So this is consistent with the item</p> <p>21 not being reported by active ingredient 10/12</p> <p>22 of 2010, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And it's consistent with the problem</p>

<p style="text-align: right;">Page 226</p> <p>1 of it not being DEA compliant at that time,  2 correct?</p> <p>3 MR. BUSH: Objection.</p> <p>4 A. It appears to be.</p> <p>5 BY MR. BAKER:</p> <p>6 Q. So it's consistent with this sentence  7 that "The IRR loses all order history when the  8 info on the item changes, causing CVS to be  9 noncompliant with the DEA expectations,"  10 correct?</p> <p>11 MR. BUSH: Objection.</p> <p>12 A. It says this in the e-mail. I'm just  13 not sure whether it's accurate or not.</p> <p>14 BY MR. BAKER:</p> <p>15 Q. But it lines up at least, right?</p> <p>16 A. It lines up to your point.</p> <p>17 MR. BAKER: So now we go to  18 Exhibit 83.</p> <p>19</p> <p>20 (Exhibit No. 83 marked for  21 identification.)</p> <p>22</p> <p>23 BY MR. BAKER:</p> <p>24 Q. It's Bates number 75564. And this is</p>	<p style="text-align: right;">Page 228</p> <p>1 back, I sent out a P point."</p> <p>2 That's a PowerPoint presentation,  3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. "...on speaking topics for DEA visits  6 regarding suspicious order monitoring."</p> <p>7 Now, you and I went over that  8 PowerPoint, right?</p> <p>9 A. Yes.</p> <p>10 Q. Earlier in this testimony?</p> <p>11 A. Yes.</p> <p>12 Q. "There's been significant changes to  13 that presentation to include the LP analyst  14 position as well as DC Rx no longer involved  15 in the investigations."</p> <p>16 Do you see that?</p> <p>17 A. I see it on the e-mail.</p> <p>18 Q. Do you know what an LP analyst even  19 is?</p> <p>20 A. It's just a role within loss  21 prevention.</p> <p>22 Q. Do you know what that means, what that  23 analyst does or doesn't do?</p> <p>24 A. I have no idea what the --</p>
<p style="text-align: right;">Page 227</p> <p>1 2/15/2011.</p> <p>2 First of all, before I ask you this  3 next series of questions -- could you look at  4 me, please.</p> <p>5 A. Yes.</p> <p>6 Q. Before I ask you this next series of  7 questions, do you know how long this remained  8 an issue, that is, that the controlled drugs  9 were not named by active ingredient but  10 instead were named by item? Do you know how  11 long that remained?</p> <p>12 A. No.</p> <p>13 MR. BUSH: Objection.</p> <p>14 A. No.</p> <p>15 MR. BUSH: No foundation that he  16 knows anything about it.</p> <p>17 A. No.</p> <p>18 MR. BAKER: And you could object  19 to form, I have no problem and I respect that,  20 but anything else shouldn't be said.</p> <p>21 BY MR. BAKER:</p> <p>22 Q. With respect to 2/15/11, this e-mail,  23 John Mortelliti to Frank Devlin, it says  24 "Team, several months back -- several months</p>	<p style="text-align: right;">Page 229</p> <p>1 Q. With respect to SOM, does that mean  2 anything at all to you, an LP analyst?</p> <p>3 A. It doesn't.</p> <p>4 Q. It says "More changes in the near  5 future will include controlled drug lag will  6 go from six months to twelve months."</p> <p>7 Do you even know what a controlled  8 drug lag is?</p> <p>9 A. I have no idea.</p> <p>10 Q. Do you know what effect it will have  11 to go from six months to twelve months on a  12 controlled drug lag?</p> <p>13 A. I do not.</p> <p>14 Q. Do you know what -- the next bullet  15 says "Controlled drug item will not be listed  16 by item number but by active ingredient."</p> <p>17 Do you know what that means?</p> <p>18 MR. BUSH: I don't think you  19 read that correctly. Controlled drug IRR.  20 You said --</p> <p>21 MR. BAKER: Okay. I'm sorry.  22 Let's go back and read it.</p> <p>23 BY MR. BAKER:</p> <p>24 Q. It says "Controlled drug IRR will not</p>



Page 230

1 be listed by item number but by active  
2 ingredient, the same way PSE is captured on  
3 IRR."

4 Is that what it says?  
5 A. That's what it says.

6 Q. So this appears to be the same issue,  
7 this active ingredient issue that's talked  
8 about in 2010 now being talked about in 2011,  
9 correct?

10 MR. BUSH: Objection.

11 BY MR. BAKER:

12 Q. Right?  
13 A. It appears to be, yes.

14 Q. So it's still a problem in this  
15 system, correct?

16 MR. BUSH: Objection.

17 BY MR. BAKER:

18 Q. Right?  
19 A. Again, first --

20 MR. BUSH: Objection.

21 A. -- time I'm seeing the e-mail and, you  
22 know, being presented this information.  
23 Again, I'm not -- I'm not too sure if it was a  
24 problem, but it appears that there was a

Page 231

1 continuation of it -- of a discussion here.  
2 BY MR. BAKER:

3 Q. Okay. Well, let's go back to item --  
4 Document 55.

5 A. Okay.

6 Q. It says here that -- it says "The  
7 controlled drug IRR" -- "The current IRR does  
8 not provide proper information to meet the  
9 DEA's needs."

10 Is that what it says?  
11 A. That's correct.

12 Q. And this is in the context of it being  
13 reported --

14 A. Yeah.

15 Q. -- by not -- not by active ingredient,  
16 correct?

17 A. It appears to be, yes.

18 Q. So then this same issue is appearing  
19 in 2011, correct?  
20 A. Correct.

21 MR. BAKER: So let's go to 92.  
22 Well, let's go to 92.

23  
24 (Exhibit No. 92 marked for

Page 232

1 identification.)

2  
3 BY MR. BAKER:

4 Q. I also want to ask you, are you  
5 familiar with what it means to have same  
6 store, same month repetitive orders by a  
7 pharmacy?

8 A. No.

9 Q. Let me ask you to assume this is what  
10 it means: It means that if you had a  
11 pharmacy, say Pharmacy No. 100, located in a  
12 certain location. That's a CVS pharmacy.

13 A. Uh-huh.

14 Q. It makes an order on January 1 for  
15 10,000 hydrocodone combination product pills  
16 from a CVS distribution center. All right?

17 A. Okay.

18 Q. Okay. Let's suppose that runs through  
19 the CVS suspicious order monitoring system and  
20 that order is granted as not being suspicious.  
21 Okay?

22 A. Yes.

23 Q. Fair enough?  
24 A. Yes.

Page 233

1 Q. In the context of the hypothetical.  
2 Let's suppose that that same store  
3 decides to order again, the same exact order,  
4 one week later but within the same month, the  
5 same 10,000 hydrocodone combination products  
6 in the same month to a distribution center.

7 Now, that's called same store, same  
8 month repetitive orders.

9 Do you understand that now?  
10 A. (Witness nodding.)

11 Q. Do you understand?  
12 A. Yes, based upon what you said, yes.

13 Q. Now, let's go to Exhibit 92.

14 Do you know -- before you read that,  
15 let me ask you something.

16 Do you know whether or not the system,  
17 the suspicious order monitoring system in  
18 place for CVS, during the period of time that  
19 you were employed there, had a basis to pick  
20 up and monitor same store, same month orders  
21 under their suspicious order monitoring  
22 system? Yes or no?

23 A. No.

24 Q. Would you think that might be

Page 234

1 something appropriate to do in order to comply  
2 with DEA expectations? Yes or no?  
3 MR. BUSH: Objection.  
4 A. Not sure. I'm not sure.  
5 BY MR. BAKER:  
6 Q. Let me make sure -- look at me.  
7 A. Yes.  
8 Q. Are you telling me that if a store  
9 ordered repetitively during the same month,  
10 the same quantity of pills or even a higher  
11 quantity of pills --  
12 A. Right, right.  
13 Q. -- than the initial order and only the  
14 initial order was monitored, not the  
15 subsequent orders, that would not have any  
16 concern to you?  
17 A. It would. It would, yes.  
18 Q. Why would it have concern to you?  
19 A. Based upon the quantities and  
20 frequencies --  
21 Q. Correct, because the quantity would  
22 increase?  
23 MR. BUSH: You need to let him  
24 finish his answer.

Page 235

1 BY MR. BAKER:  
2 Q. Go ahead. Go ahead.  
3 A. Quantities and frequencies would raise  
4 a concern.  
5 Q. Right. Let's go to this document, and  
6 it talks about -- if you look, in terms of how  
7 many distribution centers there were at this  
8 time, we're looking at Exhibit 92, which is  
9 Bates 83855, an e-mail dated July 10, 2012.  
10 This is a period of time when you were  
11 a senior vice president of logistics in charge  
12 of suspicious order monitoring, correct?  
13 MR. BUSH: Objection.  
14 BY MR. BAKER:  
15 Q. Right?  
16 A. First time I'm seeing the document.  
17 So...  
18 (Witness reviews document.)  
19 What's the date?  
20 Q. July 10, 2012.  
21 MR. BUSH: I object to the  
22 question.  
23 A. I believe it was around that time when  
24 the transition took place, but it's possible.

Page 236

1 BY MR. BAKER:  
2 Q. It says "There are 18 CVS distribution  
3 centers; 11 are DEA licensed to ship  
4 controlled substance 2 through 5. CVS does  
5 not ship Schedule II products."  
6 Correct?  
7 A. Where are you reading? Down in the  
8 bottom of the document?  
9 Q. I'm reading the bottom of the  
10 document.  
11 A. Got it. I'm following you.  
12 MR. BUSH: You're asking if  
13 that's what it says?  
14 BY MR. BUSH:  
15 Q. Is that what it says?  
16 A. That's what it says.  
17 Q. Skip over to the next page. We're on  
18 83856, at the top, the fourth line down.  
19 It says "All stores receive at least  
20 one order per week; some receive two."  
21 Correct?  
22 A. That's correct, that's what it says.  
23 Q. That's same store, same month  
24 ordering, correct?

Page 237

1 MR. BUSH: Objection.  
2 BY MR. BAKER:  
3 Q. Right?  
4 A. This -- this I don't believe  
5 referenced that -- references that.  
6 Q. You don't?  
7 A. No.  
8 Q. Go down to the bottom. It says  
9 "Volume of orders, Rx controls."  
10 Rx controls is what? Drug controls?  
11 A. Yes.  
12 Q. Schedule III through V, correct?  
13 A. Yes.  
14 Q. And PSE comprises 30,000 to 40,000  
15 line items; is that right?  
16 A. That's what it says.  
17 Q. Is that per night?  
18 MR. BUSH: Objection.  
19 A. Don't know.  
20 BY MR. BAKER:  
21 Q. It says "Front Store Rx promo,  
22 et cetera, total approximately six to eight  
23 million records nightly."  
24 Is that right?

<p style="text-align: right;">Page 238</p> <p>1 A. That's what it says, yes.</p> <p>2 Q. So that's the volume of orders that</p> <p>3 are going through these distribution centers</p> <p>4 with respect to Rx, correct?</p> <p>5 MR. BUSH: Objection.</p> <p>6 BY MR. BAKER:</p> <p>7 Q. Rx meaning drugs, right?</p> <p>8 MR. BUSH: Objection.</p> <p>9 A. Again, I'm not sure if that line --</p> <p>10 one line referenced a night or -- but the</p> <p>11 second line does reference that it was</p> <p>12 nightly.</p> <p>13 I'm not too sure about that one line</p> <p>14 here on the pharmacy side.</p> <p>15 BY MR. BAKER:</p> <p>16 Q. Six to eight million records nightly,</p> <p>17 correct?</p> <p>18 MR. BUSH: Objection.</p> <p>19 A. Correct.</p> <p>20 MR. BAKER: We're going to take</p> <p>21 a break because the food is here.</p> <p>22 THE VIDEOGRAPHER: The time is</p> <p>23 12:55 p.m., and we're off the record.</p> <p>24</p>	<p style="text-align: right;">Page 240</p> <p>1 A. Got it.</p> <p>2 Q. It's an e-mail dated November 29,</p> <p>3 2012. Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. It's from Tom Bourque to several</p> <p>6 people within CVS, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And it says "Here is the project plan</p> <p>9 and process flow that Craig and I will review</p> <p>10 with you at 2:00 p.m. Eastern today."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And at the top, it says "Attachments,"</p> <p>14 and it talks about opportunities, et cetera.</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. So the next page is that attachment.</p> <p>18 Do you see where it says "Opportunities,</p> <p>19 current SOM process."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. So this is something that's going on</p> <p>23 in November of 2012 within CVS, correct?</p> <p>24 A. Correct.</p>
<p style="text-align: right;">Page 239</p> <p>1 (Recess taken from 12:55 p.m.</p> <p>2 to 1:24 p.m.)</p> <p>3</p> <p>4 THE VIDEOGRAPHER: The time is</p> <p>5 1:24 p.m., and we're on the record.</p> <p>6 BY MR. BAKER:</p> <p>7 Q. Mr. Link, could you please pick up</p> <p>8 Exhibit 92, which I just reviewed with you.</p> <p>9 A. Yes.</p> <p>10 Q. And could you go to page 2 of that</p> <p>11 exhibit, please.</p> <p>12 Now, this is an e-mail on the front</p> <p>13 dated 11/29/12. And it's from Tom Bourque to</p> <p>14 several different people, Dean Vanelli. Who</p> <p>15 is Mr. Vanelli at that time?</p> <p>16 A. Dean --</p> <p>17 MR. BUSH: I'm sorry. I'm lost</p> <p>18 again. This is page 2 of 92?</p> <p>19 MR. BAKER: We're on the front</p> <p>20 page, then we're going to go to page 2.</p> <p>21 MR. BUSH: Oh, okay. I'm sorry.</p> <p>22 BY MR. BAKER:</p> <p>23 Q. Mr. Link, go to Exhibit 92, if you</p> <p>24 would. Go to the first page.</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. And it says here, "Current SOM process</p> <p>2 No. 5. If order is cleared on first of month</p> <p>3 and cleared and store then orders again that</p> <p>4 month, it won't be looked at. If system flags</p> <p>5 it, we are required to look at it and document</p> <p>6 why it was released. Currently we're simply</p> <p>7 releasing order based on past due diligence on</p> <p>8 a different order."</p> <p>9 Do you see that?</p> <p>10 A. I do see that on the document.</p> <p>11 Q. This is same store, same month</p> <p>12 ordering, correct?</p> <p>13 MR. BUSH: Objection.</p> <p>14 A. I am not sure.</p> <p>15 BY MR. BAKER:</p> <p>16 Q. That's what it appears to be, correct?</p> <p>17 A. Not clear.</p> <p>18 Q. Well, let's go through it.</p> <p>19 "If order is cleared on first of month</p> <p>20 and cleared and then store orders again that</p> <p>21 month."</p> <p>22 Now stop.</p> <p>23 A. Correct.</p> <p>24 Q. That's same store, same order --</p>

<p style="text-align: right;">Page 242</p> <p>1 that's same store ordering same month, 2 correct? 3 A. Correct. 4 Q. So that's what this is talking about. 5 "If the system flags it, we are required to 6 look at it and document it before it is 7 released. Currently we are simply releasing 8 that order based on past due diligence on a 9 different order." 10 Correct? 11 MR. BUSH: That's what it says 12 here? 13 BY MR. BAKER: 14 Q. That's what is says? 15 A. Yeah. 16 Q. It says here that it won't be looked 17 at if the same store orders in the same month. 18 A. That's what the document says. 19 MR. BUSH: Objection. 20 BY MR. BAKER: 21 Q. It won't be looked at in the 22 suspicious order monitoring system, correct? 23 MR. BUSH: Objection. 24 BY MR. BAKER:</p>	<p style="text-align: right;">Page 244</p> <p>1 first time I'm seeing this document. 2 Q. That would be a problem to be DEA 3 compliant if that was -- if that was going on, 4 correct? 5 MR. BUSH: Objection. 6 A. Not sure. 7 BY MR. BAKER: 8 Q. Let me put it this way -- 9 Yeah. 10 Q. -- if that's the nature of the 11 system -- 12 A. Yeah. 13 Q. -- that it allows the same store to 14 make successive orders in the same month -- 15 A. Yeah. 16 Q. -- and anything beyond the first order 17 is not even monitored -- 18 A. Right. 19 Q. -- that's not a DEA compliant 20 suspicious order monitoring system, is it? 21 MR. BUSH: Objection. 22 A. Again, not -- I really don't know for 23 sure whether or not that is -- that is an 24 issue or not based upon what you're</p>
<p style="text-align: right;">Page 243</p> <p>1 Q. Correct? 2 A. It -- it appears that it's stating 3 that, yes, yes. 4 Q. So if it's not even looked at, then 5 it's not even being monitored, correct? 6 MR. BUSH: Objection. 7 A. Not sure. Not sure that that's the 8 case. But, again -- 9 BY MR. BAKER: 10 Q. Well, how is it being monitored if 11 it's same store, same order, same month? 12 MR. BUSH: Objection. 13 A. Again -- 14 BY MR. BAKER: 15 Q. Strike that. 16 A. Again -- 17 Q. Strike that. 18 How is -- how is the same store 19 ordering opioids in the same month, different 20 successive orders during the same month being 21 monitored in your SOM system at that time, if 22 at all? 23 A. Yeah, I really don't know. I was not 24 close enough to it. And, again, this is the</p>	<p style="text-align: right;">Page 245</p> <p>1 referencing. 2 BY MR. BAKER: 3 Q. You're not sure it's an issue? 4 Let's go -- let's just go to plain 5 grammar here, because I want to make sure you 6 understand the nature of the issue. 7 A. Yeah. 8 Q. Okay? 9 A. Yeah. 10 Q. I'm going to be as explicit as 11 possible, using proper English and stopping 12 along the way to make sure you understand it. 13 A. Go ahead. Go ahead. 14 Q. So here is the English of that 15 sentence. 16 The English is "If order is cleared on 17 first of month." 18 Do you understand those words? 19 A. Yes, yeah. 20 Q. "...and cleared." 21 Do you see understand those words? 22 MR. BUSH: Objection. 23 BY MR. BAKER: 24 Q. Yes or no?</p>

<p style="text-align: right;">Page 246</p> <p>1 A. The -- the interpretation of the</p> <p>2 "cleared" is what sort of throws me off a</p> <p>3 little bit, because, again, I was not deep</p> <p>4 enough into the process. So that's where I'm</p> <p>5 a little bit --</p> <p>6 BY MR. BAKER:</p> <p>7 Q. Okay. Well, let's assume for the sake</p> <p>8 of the hypothetical that if the order is</p> <p>9 cleared on the first of the month, that means</p> <p>10 that it ran through the SOM system, that the</p> <p>11 order was cleared and that it was shipped.</p> <p>12 A. Yes.</p> <p>13 Q. Okay?</p> <p>14 A. Yes.</p> <p>15 Q. Assume that's what it means.</p> <p>16 A. Okay.</p> <p>17 Q. Does that sound consistent with that</p> <p>18 sentence?</p> <p>19 A. Yes.</p> <p>20 Q. And then it says "...store then orders</p> <p>21 again that month."</p> <p>22 Now, that means that same store</p> <p>23 ordering another time later in the month?</p> <p>24 A. Right.</p>	<p style="text-align: right;">Page 248</p> <p>1 And there's no reason for you to</p> <p>2 disagree that this is being reported properly</p> <p>3 in this document, is there?</p> <p>4 A. I -- again, this is the first time I'm</p> <p>5 seeing the document and I'm not aware of the</p> <p>6 issue. Again, these are groups that are</p> <p>7 involved that are outside of the logistics</p> <p>8 organization that are involved with this.</p> <p>9 Q. See, the question was this: You have</p> <p>10 no reason to disagree with the statement in</p> <p>11 that document, do you?</p> <p>12 MR. BUSH: He just gave you an</p> <p>13 explanation of why he might.</p> <p>14 A. No.</p> <p>15 BY MR. BAKER:</p> <p>16 Q. Do you have any reason to disagree</p> <p>17 with that?</p> <p>18 A. I do not.</p> <p>19 Q. That was -- that's the answer.</p> <p>20 So now let's move on to Exhibit 53.</p> <p>21</p> <p>22 (Exhibit No. 53 marked for</p> <p>23 identification.)</p> <p>24</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. Is that consistent with what that</p> <p>2 sentence means?</p> <p>3 A. Yes, yes.</p> <p>4 Q. "...it won't," meaning it will not.</p> <p>5 That's English, correct?</p> <p>6 A. Yes.</p> <p>7 Q. "...be looked at."</p> <p>8 Correct?</p> <p>9 A. That's what it says.</p> <p>10 Q. And now do you understand that</p> <p>11 sentence?</p> <p>12 A. That's what it says, yeah.</p> <p>13 Q. And if that was going on at CVS with</p> <p>14 respect to suspicious order monitoring, that</p> <p>15 means that CVS was not monitoring successive</p> <p>16 orders by the same store during that same</p> <p>17 month.</p> <p>18 Is that consistent with the English in</p> <p>19 that sentence?</p> <p>20 MR. BUSH: Objection.</p> <p>21 A. That's what it says in this document.</p> <p>22 BY MR. BAKER:</p> <p>23 Q. That's what I wanted you to</p> <p>24 understand.</p>	<p style="text-align: right;">Page 249</p> <p>1 BY MR. BAKER:</p> <p>2 Q. Do you remember when we talked about</p> <p>3 outside vendor?</p> <p>4 A. Yes.</p> <p>5 Q. That issue?</p> <p>6 A. Yes.</p> <p>7 Q. This is an e-mail dated October 8,</p> <p>8 2012. Correct?</p> <p>9 A. That is correct.</p> <p>10 Q. And there's another one below that,</p> <p>11 October 5, 2012, correct?</p> <p>12 A. Correct.</p> <p>13 Q. This is called "Conference call</p> <p>14 notes." It's from Pam Hinkle to Aaron</p> <p>15 Burtner, conference call notes from 10/5/12,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. "Conference call," that means</p> <p>19 somebody's on the telephone conferencing with</p> <p>20 other people in CVS, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And here it says "Pharmacy DC ordering</p> <p>23 process conference call recap."</p> <p>24 Do you see that --</p>



Page 250

1 A. I do.  
2 Q. -- at the top?  
3 A. I do.  
4 Q. Go down, one, two, three, four, five,  
5 six, seven, seven dashes from the bottom.  
6 A. From the bottom?  
7 Q. Right.  
8 A. Okay.  
9 Q. It says "All orders generated from  
10 outside vendors are not pushed through the SOM  
11 process."  
12 Do you see that?  
13 A. I do.  
14 Q. And the date on this is 10/5/12 at the  
15 top, correct?  
16 A. Correct.  
17 Q. So what that means is as of 10/5/12,  
18 somebody within CVS is having a conference  
19 call, generating a memo of that discussion to  
20 say that all orders generated from outside  
21 vendors are not pushed through the SOM  
22 process, correct?  
23 MR. BUSH: Objection.  
24 A. That's what the document says.

Page 251

1 BY MR. BAKER:  
2 Q. And you have no reason to disagree  
3 with the sentence in that document, correct?  
4 MR. BUSH: Objection.  
5 A. I do not.  
6 BY MR. BAKER:  
7 Q. Let's go to Exhibit 113. It's already  
8 been entered, so it should be in your pile  
9 over there, but she'll pull it up on the  
10 screen in front of you.  
11 A. Okay.  
12 MR. BUSH: Let's pull it up so  
13 you can look at the whole document.  
14 BY MR. BAKER:  
15 Q. This was the logistics planning  
16 update, July 8 of 2013.  
17 Do you remember that?  
18 A. I remember the document.  
19 Q. And you remember me going to page 3 of  
20 that document?  
21 We'll highlight the second bullet from  
22 the bottom where it says "SOM process."  
23 A. Yes.  
24 Q. It says "SOM process will include

Page 252

1 store controlled substances, orders placed  
2 with CVS warehouses, and outside vendors,  
3 Cardinal and McKesson."  
4 Do you see that?  
5 A. I do.  
6 Q. So that means, again, that as of that  
7 time frame, July 8, 2013, it's still not  
8 picking up outside vendors orders, but it's a  
9 plan to do so in the future, correct?  
10 MR. BUSH: Objection.  
11 A. It appears to be that way, but I do  
12 know that Cardinal and McKesson also have  
13 their own suspicious order monitoring.  
14 BY MR. BAKER:  
15 Q. Let's talk about that for a second.  
16 Are you telling me that you know for a  
17 fact that Cardinal and McKesson were  
18 monitoring these -- the orders that were  
19 placed by pharmacies?  
20 A. Not for a fact, no.  
21 Q. By CVS pharmacies?  
22 A. Not for a fact.  
23 Q. I want to make sure we're clear with  
24 that.

Page 253

1 A. Yeah.  
2 Q. So you today are not testifying that  
3 Cardinal and McKesson were monitoring the  
4 orders that CVS pharmacies made from Cardinal  
5 and McKesson, correct?  
6 A. Absolutely not.  
7 Q. Now, this adding of the outside vendor  
8 to the SOM process within CVS, that was  
9 something that was contemplated as part of a  
10 retunement that was to be rolled out in 2014;  
11 am I correct?  
12 A. Correct.  
13 MR. BUSH: Objection.  
14 BY MR. BAKER:  
15 Q. You said "correct"?  
16 A. Correct.  
17 Q. And there was a delay in rolling out  
18 that retunement for various reasons, correct?  
19 A. I believe so.  
20 Q. Let me go back to Exhibit No. 60,  
21 which has already been entered.  
22 Would you pull it up, please.  
23 Go to page 2. Excuse me, page 1.  
24 Now, at the -- it says "Currently mid

Page 254

1 deployment with 9 of 19 DCs deployed live on  
2 the new SOM."  
3 Do you see that?  
4 A. I do.  
5 Q. And it lists the dates that the new  
6 SOM process was being implemented, and the  
7 first date is 3/3/14, in Indianapolis,  
8 correct?  
9 A. That is correct.  
10 Q. And each successive date thereafter,  
11 beginning with 3/17/14 continuing down to  
12 7/7/14, shows the dates of which that process  
13 was rolled out into those distribution  
14 centers, correct?  
15 A. Correct.  
16 Q. And it said that "Deployment delayed  
17 due to system processing and data feed issues  
18 that have created SOM historical data  
19 inaccuracy." Correct?  
20 A. That's what the document says.  
21 Q. So when it was attempted to be rolled  
22 out, the program wasn't working properly,  
23 correct?  
24 MR. BUSH: Objection.

Page 255

1 A. That -- that, I don't believe is the  
2 case. I'm not aware of that.  
3 BY MR. BAKER:  
4 Q. It says it was -- it had data feed  
5 issues that have created SOM historical data  
6 inaccuracy.  
7 Do you know what that means?  
8 A. No.  
9 Q. Do you know what the importance of  
10 historical data is relative -- in terms of  
11 running through the suspicious order  
12 monitoring process?  
13 A. My interpretation of that would be  
14 that you need to have, you know, you need to  
15 have that as part of the overall system.  
16 Q. And if it's inaccurate, then the  
17 system is flawed, correct?  
18 A. Yeah, yeah.  
19 MR. BAKER: So now we get to the  
20 next document, 62.  
21  
22 (Exhibit No. 62 marked for  
23 identification.)  
24

Page 256

1 BY MR. BAKER:  
2 Q. This is the controlled substances, DEA  
3 List 1, chemical order monitoring process,  
4 correct?  
5 A. Correct.  
6 Q. This is, last review date, 2/24/14; is  
7 that right?  
8 A. Correct.  
9 Q. It's policy and procedure, correct?  
10 A. Yeah. Correct.  
11 Q. If you go to page 2 of that document,  
12 it talks about the new algorithm within the  
13 new system that's being rolled out to these  
14 distribution centers in 2014, correct?  
15 Under "SOM algorithm," do you see  
16 that?  
17 A. Yeah, I'm just reading it.  
18 (Witness reviews document.)  
19 Yeah.  
20 MR. BUSH: I'm sorry. What was  
21 your question again?  
22 A. What was the question?  
23 BY MR. BAKER:  
24 Q. I'm asking is that what it pertains

Page 257

1 to, that SOM algorithm?  
2 Let's read it.  
3 "CVS has developed, with the  
4 assistance of an outside company, algorithms  
5 designed to review each order of federally  
6 scheduled 3 through 5 controlled substances,  
7 state controlled substances, and applicable  
8 listed chemicals placed at our distribution  
9 centers."  
10 That's the first sentence of what it  
11 says, correct?  
12 A. That is correct.  
13 Q. Then it says "It takes into account  
14 orders placed to outside vendors as part of  
15 the 'Know Your Customer' requirement."  
16 Is that what it says?  
17 A. That's what it says.  
18 Q. This is CVS policy and procedure,  
19 correct?  
20 A. Correct.  
21 Q. Within logistics. Look at the first  
22 page.  
23 A. Yes.  
24 Q. And logistics is the department that

Page 258	Page 260
<p>1 you were the head of, correct?</p> <p>2 A. That is correct.</p> <p>3 Q. Did you ever read this before today?</p> <p>4 A. I don't recall.</p> <p>5 Q. Now, do you remember at the beginning</p> <p>6 of your testimony I asked if you had ever</p> <p>7 heard of "Know Your Customer"?</p> <p>8 Do you remember that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you remember you saying that no,</p> <p>11 you had never heard of it?</p> <p>12 A. I didn't remember it, correct, yeah.</p> <p>13 Q. It's unlikely that you've ever read</p> <p>14 this document, then -- that's in your hands</p> <p>15 until today; is that correct?</p> <p>16 A. That is correct.</p> <p>17 MR. BAKER: Next let's look at</p> <p>18 Exhibit No. 54.</p> <p>19</p> <p>20 (Exhibit No. 54 marked for</p> <p>21 identification.)</p> <p>22</p> <p>23 BY MR. BAKER:</p> <p>24 Q. Do you know what the term "lag" means</p>	<p>1 any higher than high, so far as the level of</p> <p>2 importance when exchanging e-mails within the</p> <p>3 CVS system?</p> <p>4 A. I -- I am not.</p> <p>5 Q. And it says "Gary, all but one item in</p> <p>6 the network was missing three to four items of</p> <p>7 LAG info on today's report."</p> <p>8 You don't understand what that means,</p> <p>9 do you?</p> <p>10 A. I don't.</p> <p>11 Q. If it related to historical data, that</p> <p>12 would be a problem, would it not?</p> <p>13 A. If it referenced that. But, again, I</p> <p>14 don't -- I don't know what LAG means as part</p> <p>15 of the --</p> <p>16 Q. If you're saying that LAG means a</p> <p>17 reference to historical data, that would be a</p> <p>18 problem in the SOM system, would it not?</p> <p>19 A. It would.</p> <p>20 Q. And it says "Something else has</p> <p>21 changed, for just about every company we deal</p> <p>22 with has changed the description on their</p> <p>23 drugs."</p> <p>24 Is that what it says?</p>
Page 259	Page 261
<p>1 in the context of suspicious order monitoring?</p> <p>2 A. I do not.</p> <p>3 Q. Do you remember when we talked to you</p> <p>4 earlier today about the fact that the</p> <p>5 controlled drugs were not being described by</p> <p>6 active ingredient but were instead being</p> <p>7 described by item? Do you remember that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Now, I want you to read this along</p> <p>10 with me on page 2 of this document.</p> <p>11 It says -- Bates Number 34169. It's</p> <p>12 an e-mail dated October 6, 2010 from John</p> <p>13 Mortelliti to Gary Misiaszek.</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. "Importance, high."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Now, when e-mails are sent and there's</p> <p>20 a relative importance put to them, is high the</p> <p>21 highest level of importance that can be</p> <p>22 generated?</p> <p>23 A. I am not aware of that.</p> <p>24 Q. Are you -- are you aware of anything</p>	<p>1 A. That's what the e-mail says.</p> <p>2 Q. And do you remember from reviewing</p> <p>3 prior e-mails in your testimony today what</p> <p>4 problem that was causing insofar as being able</p> <p>5 to pull up historical data? Do you remember</p> <p>6 that?</p> <p>7 A. I do.</p> <p>8 Q. And it says "Whatever you could do to</p> <p>9 help expedite this process would be greatly</p> <p>10 appreciated. I am now reviewing the network</p> <p>11 controlled drug IRR on common sense as opposed</p> <p>12 to IRR historical data. I know that is</p> <p>13 scary."</p> <p>14 That's what it says, right?</p> <p>15 A. That's what the e-mail says, yes.</p> <p>16 Q. That is consistent with the suspicious</p> <p>17 order monitoring system being flawed,</p> <p>18 correct?</p> <p>19 MR. BUSH: Objection.</p> <p>20 A. I don't necessarily believe that this</p> <p>21 e-mail would mean that it's totally flawed.</p> <p>22 It just references that there might be</p> <p>23 an area of opportunity.</p> <p>24 BY MR. BAKER:</p>

Page 262

1 Q. Well, if you're not able to pull up  
2 accurate historical data to references against  
3 an order, that's not a DEA compliant  
4 suspicious order monitoring system, is it?  
5 MR. BUSH: Objection.  
6 A. Correct.  
7 BY MR. BAKER:  
8 Q. Correct?  
9 A. Correct.  
10 Q. Have you ever heard of the concept of  
11 BVR order?  
12 A. No.  
13 Q. Do you know what "volume, ratio, or  
14 both" means?  
15 A. I do not.  
16 Q. Do you know what "both volume and  
17 ratio" means?  
18 A. I do not.  
19 Q. Do you know what a store metric report  
20 means?  
21 A. I do not.  
22 Q. Do you even know what store metrics  
23 are?  
24 A. They can mean a lot of different

Page 263

1 things in reference to, you know, service  
2 level reports, inventory reports. But in  
3 this -- in reference to what we're talking  
4 about, I do not.  
5 Q. In reference to suspicious order  
6 monitoring of narcotic drugs, you have no idea  
7 what the term "metric report" means?  
8 A. No, none whatsoever.  
9 Q. And in particular, in the context of  
10 suspicious order monitoring, you have no idea  
11 what the term "store metrics" means; is that  
12 right?  
13 A. That's correct.  
14 Q. And in terms of suspicious order  
15 monitoring, you have no idea what a store  
16 metric report even contains, do you?  
17 A. I have no idea.  
18 Q. Or what it measures?  
19 A. (Witness nodding.)  
20 Q. Correct?  
21 A. Correct.  
22 Q. Or why it's even used in the context  
23 of suspicious order monitoring, correct?  
24 A. That is correct.

Page 264

1 MR. BAKER: Okay. Let me show  
2 you Exhibit 85.  
3  
4 (Exhibit No. 85 marked for  
5 identification.)  
6  
7 BY MR. BAKER:  
8 Q. This is an e-mail from Kelly Baker to  
9 Mark Nicastro.  
10 Do you know who Kelly Baker was at  
11 that time?  
12 A. I didn't -- no, I -- I don't know.  
13 Q. If you look -- excuse me.  
14 On the second page of that document,  
15 up at the top, this is an e-mail from Kelly  
16 Baker to Craig Schiavo and Dean Vanelli.  
17 Now, who are Craig Schiavo and Dean  
18 Vanelli as of July 9, 2003 within CVS?  
19 MR. BUSH: 2013 you mean?  
20 MR. BAKER: I'm sorry.  
21 A. '13, yeah, '13.  
22 BY MR. BAKER:  
23 Q. Let me repeat the question.  
24 We're looking at an e-mail dated

Page 265

1 July 9, 2013.  
2 Who is Craig Schiavo and who is Dean  
3 Vanelli in the context of CVS at that time?  
4 A. Craig was the senior manager of  
5 regulatory compliance. And Dean was the  
6 director of logistics planning.  
7 Q. It says "Craig, not really pertaining  
8 to your question, but I did want to highlight  
9 to the group that you note that I do not have  
10 a backup. Even our hourly assistant has  
11 limited access. If something happens to me  
12 via active nature or illness, the current  
13 daily SOM process would come to a complete  
14 halt."  
15 Do you see that?  
16 A. I see that in that e-mail.  
17 Q. Does that indicate to you that the  
18 entire suspicious order monitoring process  
19 hinged on one person at that time?  
20 MR. BUSH: Objection.  
21 A. I -- I don't believe that's accurate.  
22 BY MR. BAKER:  
23 Q. Was the suspicious order monitoring  
24 process in 2013 a national process run out of

Page 266	Page 268
<p>1 one distribution center?</p> <p>2 A. I believe at that time it was run out</p> <p>3 of Indianapolis.</p> <p>4 Q. And it was a national process,</p> <p>5 right?</p> <p>6 A. Correct.</p> <p>7 Q. When I say it's a national process,</p> <p>8 it's run for every single pharmacy that's</p> <p>9 making every single order out of a DC</p> <p>10 nationwide every day, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And every night?</p> <p>13 A. Correct.</p> <p>14 Q. Go to the front page. This is an</p> <p>15 e-mail in the middle of the page --</p> <p>16 A. Yeah.</p> <p>17 Q. -- from Kelly Baker, Thursday,</p> <p>18 July, 11, 2013, 11:38.</p> <p>19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. I says, to Craig Schiavo, "Craig,</p> <p>22 another concern I have is the store metric</p> <p>23 report I use to analyze the BVRs on the IRR.</p> <p>24 The data snapshot is a three-month window that</p>	<p>1 based on volume, ratio, or both."</p> <p>2 Correct?</p> <p>3 A. That's what it says.</p> <p>4 Q. It sounds to you when you read this</p> <p>5 e-mail that there are problems going on in the</p> <p>6 suspicious order monitoring system at CVS in</p> <p>7 July of 2013, correct?</p> <p>8 A. It appears that there are some</p> <p>9 opportunities that are being addressed.</p> <p>10 Q. That's the positive way to describe a</p> <p>11 problem, correct -- there are opportunities</p> <p>12 that could be corrected -- correct?</p> <p>13 A. Yes.</p> <p>14 Q. The realistic way is there are</p> <p>15 problems that need correcting, correct?</p> <p>16 MR. BUSH: Objection.</p> <p>17 A. Based upon the e-mail, there are</p> <p>18 highlighting opportunities, yes. Yeah.</p> <p>19 BY MR. BAKER:</p> <p>20 Q. Now are you aware that in 2013, the</p> <p>21 DEA wrote to your company telling your company</p> <p>22 that the SOM process was not sufficient?</p> <p>23 Are you aware of that?</p> <p>24 A. I don't recall.</p>
Page 267	Page 269
<p>1 is a year old. Any analysis that I make from</p> <p>2 the data is, for the most part, irrelevant and</p> <p>3 pointless."</p> <p>4 Is that what it says?</p> <p>5 A. That's what the e-mail says.</p> <p>6 Q. If the analysis being done under the</p> <p>7 CVS suspicious order monitoring system was</p> <p>8 based upon data that for the most part was</p> <p>9 irrelevant and pointless, then the system is</p> <p>10 not doing what it's designed to do, which is</p> <p>11 to monitor for suspicious orders of narcotic</p> <p>12 drugs, correct?</p> <p>13 A. Based upon the e-mail, I would -- I</p> <p>14 would say that that's correct. However, I'm</p> <p>15 just -- again, this is the first time seeing</p> <p>16 the document. I'm just not sure it's an</p> <p>17 accurate statement even though it's there.</p> <p>18 But I -- yes, it's correct.</p> <p>19 Q. Now, you understand -- look at the</p> <p>20 top, it says "BVR." It defines BVR under</p> <p>21 Kelly Baker's e-mail to Mark Nicastro.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. It says "The BVRs are orders flagged</p>	<p>1 Q. Could you pull Exhibit 103. Do you</p> <p>2 remember me going over Exhibit 103 with you?</p> <p>3 MR. BUSH: We've already looked</p> <p>4 at that.</p> <p>5 BY MR. BAKER:</p> <p>6 Q. Skip down to the bottom.</p> <p>7 Do you remember that this document</p> <p>8 dated May 15, 2014 was the closing remarks of</p> <p>9 the DEA to your company, and your company</p> <p>10 wrote in an e-mail from Andy Eck to Mortelliti</p> <p>11 and others that under the suspicious order</p> <p>12 monitoring topic that the DEA thought this</p> <p>13 process was not sufficient?</p> <p>14 Do you remember that?</p> <p>15 A. I remember it from the e-mail.</p> <p>16 Q. And when you read e-mails like we just</p> <p>17 read with Mr. Kelly Baker (sic) to Mark</p> <p>18 Nicastro describing these problems with store</p> <p>19 metrics and BVR orders, orders based upon</p> <p>20 volume, ratio or both being provided --</p> <p>21 providing original analysis of data that for</p> <p>22 the most part is irrelevant or pointless,</p> <p>23 that's consistent with the DEA saying this</p> <p>24 process was not sufficient, correct?</p>



Page 270

1 MR. BUSH: Objection.  
2 BY MR. BAKER:  
3 Q. Isn't it?  
4 MR. BUSH: Objection.  
5 A. It appears to be -- it appears to be,  
6 yes.  
7 BY MR. BAKER:  
8 Q. And do you remember Exhibit No. 34?  
9 Could you pull that up, please. It's already  
10 been entered.  
11 If you go to page 2 of that document.  
12 Do you see it in front of you?  
13 A. Not yet.  
14 Q. It's Bates number 10530.  
15 A. Yes, I see it.  
16 Q. Do you remember those were the  
17 notes --  
18 A. Yes.  
19 Q. -- that were made about the DEA  
20 visit --  
21 A. Yes.  
22 Q. -- the visit in 2013 to the Indiana  
23 facility?  
24 A. Yes.

Page 271

1 Q. At the bottom, it says "Failure to  
2 design and control substance monitoring, most  
3 serious."  
4 Correct?  
5 A. That's what it says, correct.  
6 MR. BAKER: Let's go to Exhibit  
7 36A, please.  
8 Excuse me, 10A. Let me see that for  
9 just a second.  
10  
11 BY MR. BAKER:  
12 Q. Could you go to Exhibit 36A, please.  
13 I'm going to have to pull it up on the screen.  
14 MR. BUSH: One we've already  
15 looked at?  
16 MR. BAKER: It should be, yes.  
17 BY MR. BAKER:  
18 Q. Now, do you remember these e-mails I  
19 went over with you with Kelly Baker? Look at  
20 me please, sir.  
21 A. Yes.  
22 Q. Do you remember these e-mails I went  
23 over with Kelly Baker describing the  
24 problems --

Page 272

1 A. Yes.  
2 Q. -- that were going on?  
3 A. Yes.  
4 Q. Do you remember this series of closing  
5 remarks --  
6 A. Yes.  
7 Q. -- that we talked about?  
8 A. Yes.  
9 Q. Now, at some point there was a  
10 discussion within CVS to move the entire  
11 process of suspicious order monitoring out of  
12 logistics and to place it up into corporate up  
13 here in Woonsocket, correct?  
14 A. Correct.  
15 Q. This is an e-mail, Exhibit 36A,  
16 Bates 12363, that at 8/18/13 between Mark  
17 Nicastro and you, Ronald Link, correct?  
18 A. Correct.  
19 Q. So you're familiar with this e-mail?  
20 A. Yeah, I don't...  
21 MR. BUSH: Bill, I don't think  
22 you did show this before.  
23 THE WITNESS: This is the first  
24 time --

Page 273

1 MR. BUSH: This looks new to me.  
2 How long -- is it just this page, or is there  
3 more to it than that?  
4 MR. BAKER: As far as I know,  
5 this is it. This is the entire e-mail.  
6 MR. BUSH: What's up on the  
7 screen is the entire e-mail?  
8  
9 (Brief pause in proceedings.)  
10  
11 MR. BUSH: Got it. I'm sorry.  
12 BY MR. BAKER:  
13 Q. Let's go to Exhibit 36A.  
14 A. Yes.  
15 Q. Do you see that it's dated 8/18/13  
16 from Mark Nicastro to you, Ronald Link?  
17 A. I do.  
18 Q. Correct?  
19 A. Yes.  
20 Q. It's called "SOM update," correct?  
21 A. Correct.  
22 Q. So you were involved in the SOM  
23 process to some degree, were you not? I mean,  
24 You're getting SOM updates, right?

Page 274	Page 276
<p>1 A. To some degree, yes.</p> <p>2 Q. But this is your department at this</p> <p>3 time, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Your head of the entire SOM department</p> <p>6 right?</p> <p>7 MR. BUSH: Objection.</p> <p>8 A. I -- I have -- it's within my area of</p> <p>9 responsibility, but I've got people within my</p> <p>10 department that oversee the SOM program.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. Let's go -- let's go visit that again.</p> <p>13 The SOM department is owned by logistics at</p> <p>14 that time correct?</p> <p>15 A. That's correct.</p> <p>16 Q. And you were the head of logistics at</p> <p>17 that time?</p> <p>18 A. That's right.</p> <p>19 Q. Correct?</p> <p>20 A. Correct.</p> <p>21 Q. When this e-mail is being written, you</p> <p>22 were head of logistics, which is head of</p> <p>23 suspicious order monitoring, correct?</p> <p>24 MR. BUSH: Objection.</p>	<p>1 Look at the bottom there. It says "I</p> <p>2 know Tom and Craig want the process in</p> <p>3 Woonsocket. And if they're going to own it,</p> <p>4 staff it, and manage it, fine."</p> <p>5 Correct?</p> <p>6 A. That's what it's referencing, correct.</p> <p>7 Q. So this e-mail is one that</p> <p>8 contemplates moving the process out of your</p> <p>9 distribution center --</p> <p>10 A. To corporate.</p> <p>11 Q. -- to corporate, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And the one -- one of the reasons is</p> <p>14 that because they don't usually get tipped off</p> <p>15 by the DEA when they're coming to visit at the</p> <p>16 distribution center, correct?</p> <p>17 A. I'm -- you know, it's on the e-mail,</p> <p>18 but I was never aware of a tipping off of --</p> <p>19 by the DEA visiting a distribution center.</p> <p>20 Q. Is there a better chance that CVS</p> <p>21 would get tipped off by moving it to</p> <p>22 Woonsocket into corporate somehow? Is that</p> <p>23 what this is all about?</p> <p>24 MR. BUSH: Objection.</p>
Page 275	Page 277
<p>1 BY MR. BAKER:</p> <p>2 Q. Right?</p> <p>3 A. It was within my organization,</p> <p>4 correct.</p> <p>5 Q. Within the department that you were</p> <p>6 head of?</p> <p>7 A. Right.</p> <p>8 Q. Right?</p> <p>9 A. That's correct.</p> <p>10 Q. And you're on this e-mail, right?</p> <p>11 A. That's correct.</p> <p>12 Q. And it deals with suspicious order</p> <p>13 monitoring, right?</p> <p>14 A. That's correct.</p> <p>15 Q. So this goes down to Paragraph 2, it</p> <p>16 says "Tom Bourque mentioned a reason for</p> <p>17 moving the process is because we don't usually</p> <p>18 get tipped off that the DEA are coming and</p> <p>19 they never take a day off during the audit."</p> <p>20 Correct?</p> <p>21 A. That's what it says in the e-mail.</p> <p>22 Q. So moving the process. Is this moving</p> <p>23 the process to Woonsocket? Is that what this</p> <p>24 says?</p>	<p>1 A. I have no idea.</p> <p>2 BY MR. BAKER:</p> <p>3 Q. Is that one of the reasons that's</p> <p>4 stated in this e-mail, because you aren't</p> <p>5 getting tipped off by the DEA, so let's move</p> <p>6 it up to corporate in Woonsocket, Rhode</p> <p>7 Island; isn't that what it says?</p> <p>8 A. I have --</p> <p>9 MR. BUSH: Objection.</p> <p>10 A. I have no idea.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. You have no idea?</p> <p>13 A. I don't believe that's the case at</p> <p>14 all.</p> <p>15 Q. What would -- what's the reason that</p> <p>16 was being discussed between you and</p> <p>17 Mr. Nicastro?</p> <p>18 Tom Bourque mentioned a reason for</p> <p>19 moving the process is because we don't usually</p> <p>20 get tipped off by the DEA -- tipped off that</p> <p>21 the DEA are coming.</p> <p>22 A. I don't understand why Tom would make</p> <p>23 that comment. I don't understand.</p> <p>24 Q. Well --</p>

Page 278

1 A. I don't know why he would make the  
2 comment.  
3 Q. Did you call Tom and say, Tom, why are  
4 you saying this?  
5 A. I don't recall.  
6 Q. Are you aware of any process through  
7 which CVS gets tipped off?  
8 A. No. Absolutely not.  
9 Q. Are you aware of any process why you  
10 would get tipped off if it was moved out of  
11 Indiana as opposed to staying in Indiana?  
12 A. Absolutely not. I never heard an  
13 incident where the DEA would tip off a DC;  
14 never once.  
15 Q. You understand that at the time of  
16 this e-mail, there was no suspicious order  
17 monitoring manager in place? Did you know  
18 that?  
19 MR. BUSH: Objection.  
20 A. I am not sure. I can't remember.  
21 BY MR. BAKER:  
22 Q. You say you had people that worked  
23 below you. That's including a suspicious  
24 order monitoring manager, correct?

Page 279

1 A. We had -- we had people that were  
2 responsible for this, correct.  
3 Q. One of your managers, that would be a  
4 suspicious order monitoring manager, correct?  
5 A. Would be part of the staff.  
6 Q. Okay. One of your managers in your  
7 department, right?  
8 A. Correct.  
9 Q. Right?  
10 A. Correct.  
11 Q. So let's go further in here.  
12 It says "We may not get tipped off  
13 that they are coming, but DEA audits -- DEA  
14 audits typically take a day off to allow the  
15 DC to get the paperwork before they come  
16 back."  
17 Correct? That's what it says?  
18 A. That's what it says.  
19 Q. And then it goes on to say, "I  
20 understand his trepidation given our  
21 vulnerability of not having an SOM manager."  
22 Isn't that what it says?  
23 A. That's what the e-mail says, correct.  
24 Q. That would be consistent with you

Page 280

1 participating in an e-mail or at least  
2 receiving an e-mail from Mark Nicastro, who is  
3 the Indiana DC director, August 18, 2013,  
4 telling you, the senior vice president of  
5 logistics, that there really is no SOM manager  
6 at CVS right now, correct?  
7 MR. BUSH: Objection.  
8 A. It's purely a title. There were  
9 people managing the program. It's just purely  
10 interpretation of creating a different title  
11 for people who are managing a program. That's  
12 all.  
13 BY MR. BAKER:  
14 Q. Is that consistent with the way that  
15 the title was created for Amy Propatier, that  
16 she was DEA compliance coordinator?  
17 Is that -- was that just a title, but  
18 she really didn't do it? Is that what you're  
19 saying?  
20 A. No, no.  
21 Q. Is -- was the SOM manager really not  
22 an SOM manager; it was just a title thrown out  
23 there on somebody?  
24 A. No.

Page 281

1 Q. Well, then, the SOM manager manages  
2 the SOM system under your category, right?  
3 A. Correct.  
4 Q. So there was no SOM manager at this  
5 time, correct?  
6 A. There may --  
7 MR. BUSH: Objection.  
8 A. -- not have been a titled manager.  
9 There may not have been a person with that  
10 title at that time.  
11 BY MR. BAKER:  
12 Q. This is talking in the first paragraph  
13 of this e-mail about interviewing somebody for  
14 your future SOM manager, correct?  
15 A. Correct.  
16 Q. This person -- did this person ever  
17 get hired?  
18 A. I don't know.  
19 Q. Do you know who this person was that  
20 CVS was trying to hire?  
21 A. I don't.  
22 Q. Do you know who the next succession  
23 person was to get hired on as the SOM manager?  
24 A. I know who eventually became the SOM

<p style="text-align: right;">Page 282</p> <p>1 manager.</p> <p>2 Q. It was Shauna Helfrich; is that right?</p> <p>3 A. I'm not aware. I don't believe so.</p> <p>4 Q. You're not aware of that?</p> <p>5 A. No.</p> <p>6 Q. Do you know when this SOM manager got</p> <p>7 hired on, this next person?</p> <p>8 A. I do not.</p> <p>9 Q. Do you know how long it took to get an</p> <p>10 SOM manager in place?</p> <p>11 A. I do not.</p> <p>12 Q. Do you know how long the SOM program</p> <p>13 was unmanaged?</p> <p>14 MR. BUSH: Objection.</p> <p>15 A. It was always managed.</p> <p>16 BY MR. BAKER:</p> <p>17 Q. Let's go to the next document.</p> <p>18 Now, aside from the Indiana</p> <p>19 distribution center, there was another</p> <p>20 distribution center in Chemung, New York,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. That particular distribution center</p> <p>24 never reported a suspicious order the entire</p>	<p style="text-align: right;">Page 284</p> <p>1 Indiana leads the nation in pharmacy armed</p> <p>2 robberies and that several CVS stores have</p> <p>3 been among those robbed."</p> <p>4 Correct, that's what it says?</p> <p>5 A. Yes.</p> <p>6 MR. BUSH: I'm sorry. Where are</p> <p>7 you?</p> <p>8 Got it. Thank you</p> <p>9 A. Yes, that's what the e-mail -- the</p> <p>10 document says.</p> <p>11 BY MR. BAKER:</p> <p>12 Q. The document says "They question what</p> <p>13 CVS is doing or can do to prevent pharmacy</p> <p>14 robberies."</p> <p>15 Correct?</p> <p>16 A. Correct.</p> <p>17 Q. It says "They question maybe some of</p> <p>18 our stores are carrying too much hydrocodone,</p> <p>19 which is a major target for robberies, and</p> <p>20 that CVS continues to pump hydro into those</p> <p>21 stores, some of which have been robbed</p> <p>22 repeatedly."</p> <p>23 Correct?</p> <p>24 A. That's what it says.</p>
<p style="text-align: right;">Page 283</p> <p>1 time that you were employed by CVS; am I</p> <p>2 correct?</p> <p>3 A. I'm not aware of that.</p> <p>4 Q. Are you aware of one suspicious order</p> <p>5 at all that was ever reported by the Chemung,</p> <p>6 New York distribution center? Yes or no?</p> <p>7 A. No. I -- I'm not aware of any.</p> <p>8 Q. Let me ask you to look at Exhibit 108</p> <p>9 with me, please.</p> <p>10</p> <p>11 (Exhibit No. 108 marked for</p> <p>12 identification.)</p> <p>13</p> <p>14 BY MR. BAKER:</p> <p>15 Q. This is a memo from the Indianapolis</p> <p>16 distribution center, dated August 5 through</p> <p>17 August 8, 2013, discussing a DEA visit there</p> <p>18 in August of 2013.</p> <p>19 Is that correct?</p> <p>20 A. Yeah. Yes.</p> <p>21 Q. If you would turn to the sixth page of</p> <p>22 that document, please. We're at Bates 8394.</p> <p>23 It says -- the sixth bullet down</p> <p>24 there, it says "DEA stated statistics like</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. Now, are you aware that these</p> <p>2 robberies were going on when you were --</p> <p>3 A. No.</p> <p>4 Q. -- employed there?</p> <p>5 A. No.</p> <p>6 Q. Nobody informed you about it?</p> <p>7 A. No.</p> <p>8 Q. Isn't that part of suspicious order</p> <p>9 monitoring, to know your customer?</p> <p>10 A. In reference to robberies taking place</p> <p>11 in a store, I don't recall any -- any</p> <p>12 discussions around that at all.</p> <p>13 Q. Isn't it part of "Know Your Customer"</p> <p>14 to know that robberies are taking place in</p> <p>15 your stores?</p> <p>16 A. I'm not sure. I'm not sure.</p> <p>17 Q. Isn't it -- isn't that part of</p> <p>18 diversion, when robberies take place and the</p> <p>19 hydrocodone are stolen and put out onto the</p> <p>20 street?</p> <p>21 A. Yes, yeah.</p> <p>22 Q. Isn't that part of what the suspicious</p> <p>23 order monitoring process is all about, to</p> <p>24 prevent that kind of stuff?</p>

<p style="text-align: right;">Page 286</p> <p>1 A. Yes.</p> <p>2 Q. Isn't this part of something that</p> <p>3 should be reported to the DEA?</p> <p>4 A. Yes.</p> <p>5 Q. How many visits did you make to these</p> <p>6 stores that were being robbed repeatedly?</p> <p>7 A. Me personally?</p> <p>8 Q. Yes.</p> <p>9 A. None.</p> <p>10 Q. How many visits did anybody from CVS</p> <p>11 make to these stores that were being robbed</p> <p>12 repeatedly?</p> <p>13 A. I have no knowledge of that.</p> <p>14 Q. What suspicious order monitoring was</p> <p>15 done, if any, relative to these stores that</p> <p>16 were being robbed repeatedly?</p> <p>17 A. I am not aware of anything.</p> <p>18 MR. BAKER: Let me show you</p> <p>19 Exhibit 68.</p> <p>20</p> <p>21 (Exhibit No. 68 marked for</p> <p>22 identification.)</p> <p>23</p> <p>24 BY MR. BAKER:</p>	<p style="text-align: right;">Page 288</p> <p>1 A. Correct.</p> <p>2 Q. And you have knowledge at some point</p> <p>3 that there was supposed to be some pend of an</p> <p>4 order, based upon that algorithm, causing a</p> <p>5 certain score of a certain order, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Now, regardless of what that says</p> <p>8 about how orders were pended or not pended,</p> <p>9 let me show you what this document says.</p> <p>10 Go down to where it says "Process of</p> <p>11 identifying suspicious orders."</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. If you look at me for just a second.</p> <p>15 You know the definition of a suspicious order,</p> <p>16 right?</p> <p>17 A. Correct.</p> <p>18 Q. What is a suspicious order?</p> <p>19 A. It's a item that has either the</p> <p>20 frequency or the velocity of the item is out</p> <p>21 of -- out of norm.</p> <p>22 Q. Is that what you think it is?</p> <p>23 I've read it to you like three or four</p> <p>24 times today. Is that your definition of a</p>
<p style="text-align: right;">Page 287</p> <p>1 Q. Do you remember earlier in your</p> <p>2 testimony today I asked if you ever heard of</p> <p>3 or knew what an IRR report was? Do you</p> <p>4 remember that?</p> <p>5 A. I do.</p> <p>6 Q. Do you remember telling me that, no,</p> <p>7 you never heard of it and that you didn't know</p> <p>8 what it was before today, correct?</p> <p>9 A. I did not -- did not recall the</p> <p>10 content of what an IRR report is, correct.</p> <p>11 Q. But I've shown you in the policies and</p> <p>12 procedures manual --</p> <p>13 A. Yes.</p> <p>14 Q. -- from CVS what an IRR report is,</p> <p>15 right?</p> <p>16 A. Correct.</p> <p>17 Q. So you have some knowledge of it just</p> <p>18 by virtue of reading it today, correct?</p> <p>19 A. That is correct.</p> <p>20 Q. So you have some knowledge from your</p> <p>21 reviewing documents with me today that there</p> <p>22 was this algorithm-based system from a company</p> <p>23 that had written a software program for CVS at</p> <p>24 some point, correct?</p>	<p style="text-align: right;">Page 289</p> <p>1 suspicious order?</p> <p>2 MR. BUSH: This isn't a memory</p> <p>3 test. Why don't you move on.</p> <p>4 A. Yeah.</p> <p>5 BY MR. BAKER:</p> <p>6 Q. Do you know what a suspicious order</p> <p>7 is?</p> <p>8 A. It's an item that has the -- it's an</p> <p>9 issue with the velocity and also the frequency</p> <p>10 of the order is out of the norm.</p> <p>11 Q. Velocity is speed, correct?</p> <p>12 A. Velocity is frequency. Frequency of</p> <p>13 the order and also the size of the order.</p> <p>14 Q. I'm going to let you go back at some</p> <p>15 point and read the statute again.</p> <p>16 But in any event, let's move forward.</p> <p>17 Okay?</p> <p>18 A. Thank you.</p> <p>19 Q. So it says "Process of identifying</p> <p>20 suspicious orders."</p> <p>21 I'd like you to bold that first</p> <p>22 sentence, please.</p> <p>23 A. Which one?</p> <p>24 Q. The trial technician is doing that, if</p>



Page 290

1 you look at your screen there.  
2 A. Okay.  
3 Q. It says "In order to determine which  
4 items on the control IRR are suspicious, the  
5 order quantity field is observed by the DCIR  
6 analyst when a quantity is ordered of ten or  
7 more."  
8 Let's stop right there.  
9 "Ten or more" means ten bottles or  
10 more, correct?  
11 MR. BUSH: Objection.  
12 A. Again, first time I'm seeing this  
13 report. I was not that deep into the  
14 reporting to understand exactly what is meant  
15 by what's being reported here.  
16 BY MR. BAKER:  
17 Q. The bottles that were shipped of  
18 hydrocodone combination products out of the  
19 distribution center generally contained 500  
20 pills per bottle; is that right?  
21 A. I don't know.  
22 Q. You don't even know that?  
23 A. I don't know how many -- I have no  
24 knowledge of how many pills are in each

Page 291

1 bottle.  
2 Q. And then it says -- goes on to say,  
3 "The month-to-date field is then observed and  
4 compared to LAGs 1, 2, and 3."  
5 You have no idea what LAGs 1, 2, or 3  
6 are, correct?  
7 A. No.  
8 Q. Correct?  
9 A. No.  
10 Q. And then it says "If the month-to-date  
11 quantity is at least three times greater than  
12 the quantities in LAGs 1, 2, or 3, then that  
13 item is labeled as being suspicious."  
14 Is that what it says?  
15 A. That's what it says.  
16 Q. So go to the paragraph above that and  
17 go to the last two sentences where it says  
18 "the unit of measure."  
19 Do you see here?  
20 A. Yeah.  
21 Q. It starts with, "The unit of measure,"  
22 and then go ahead and bold everything down to  
23 the end of that paragraph, please.  
24 It says "The unit of measure does not

Page 292

1 state the form of the controlled substance,  
2 (tablet, liquid, gram, et cetera) but the  
3 person reviewing the report has an  
4 understanding of the proper unit of measure  
5 used for the controlled substances identified  
6 on the report. The month-to-date order  
7 quantity states the amount of the item in  
8 question ordered during the current month.  
9 LAG 1 is the amount ordered the month before.  
10 LAG 2 is the amount ordered two months before.  
11 And LAG 3 is the amount ordered three months  
12 before."  
13 Do you understand what LAG is now?  
14 MR. BUSH: Objection.  
15 A. It appears to be referencing a month,  
16 but that's -- that's just my understanding  
17 from reading this right now.  
18 BY MR. BAKER:  
19 Q. LAG 1 is the amount ordered the month  
20 before.  
21 You know what that means, correct?  
22 A. Right.  
23 Q. So if you ordered in April, that would  
24 mean the amount you ordered in March, correct?

Page 293

1 A. Correct.  
2 Q. If you ordered in April, LAG 2 is the  
3 amount ordered two months before. So that  
4 would be the amount ordered in February,  
5 correct?  
6 A. Correct.  
7 Q. All right. And LAG 3 is the amount  
8 ordered three months before. So if you  
9 ordered in April, that would be the amount you  
10 ordered in January, right?  
11 A. Correct.  
12 Q. So LAG 1 would be what? January.  
13 LAG 2 would be February.  
14 LAG 3 would be March.  
15 Correct?  
16 A. Correct.  
17 MR. BUSH: I think you got that  
18 backwards, but...  
19 BY MR. BAKER:  
20 Q. Or LAG 1 would be March. LAG 2 would  
21 be February. LAG 3 would be January.  
22 A. Correct.  
23 Q. Correct?  
24 A. Correct.

Page 294

1 Q. That's the three LAG system that we're  
2 talking about here, correct?  
3 A. Okay.  
4 Q. And it says here that "The  
5 month-to-date field is then observed and  
6 compared to LAGs 1, 2, and 3. If the  
7 month-to-date quantity is at least three times  
8 greater than the quantities in LAGs 1, 2, or  
9 3, then that item is labeled as being  
10 suspicious."  
11 Correct?  
12 A. That's what the document says.  
13 Q. Think about this for a second. If  
14 that's the measure, then hypothetically, what  
15 that would mean is that if 10,000 pills were  
16 ordered in April, then you go back -- excuse  
17 me -- if 10,000 pills were ordered in January,  
18 right?  
19 A. (Witness nodding.)  
20 Q. If 10,000 pills were ordered in  
21 February, if 10,000 pills were ordered in  
22 March, that's 10,000 pills into a pharmacy,  
23 narcotics, on average, per month during those  
24 LAGs, correct?

Page 295

1 A. Correct.  
2 Q. If during April the order is not at  
3 least 10,000 plus three times that -- so X  
4 plus 3X -- then the order's not going to be  
5 considered suspicious; but if it does equal X  
6 plus 3X, it's going to be considered  
7 suspicious, correct?  
8 MR. BUSH: Objection.  
9 BY MR. BAKER:  
10 Q. Is that what it says?  
11 MR. BUSH: Objection.  
12 A. I'm not sure it says that.  
13 BY MR. BAKER:  
14 Q. You're not sure? Well, let's read it.  
15 Okay?  
16 A. Yeah.  
17 Q. It says that "If the month-to-date  
18 quantity is at least three times greater."  
19 Do you know what "three times greater"  
20 means?  
21 A. I do.  
22 Q. So it means -- three times greater  
23 means three times greater than the prior  
24 order, correct?

Page 296

1 A. That's right.  
2 Q. So if the prior order is 10,000 and  
3 the current order is not at least three times  
4 more than 10,000 --  
5 A. Right.  
6 Q. -- three times 10,000 more than  
7 10,000.  
8 A. Right.  
9 Q. In other words, if it isn't at least  
10 40,000 --  
11 A. Right.  
12 Q. -- then if it's at least that much,  
13 then the item is labeled as being suspicious,  
14 correct?  
15 A. That's what it says.  
16 Q. Is that right?  
17 A. That's what it says, yes.  
18 Q. So it would take a jump from 10,000 to  
19 40,000 under this definition to be labeled as  
20 suspicious, correct?  
21 MR. BUSH: Objection.  
22 BY MR. BAKER:  
23 Q. Right?  
24 A. Based on what is written here, yes.

Page 297

1 Q. Do you remember when I talked about --  
2 when I talked about same store, same month?  
3 Do you remember?  
4 A. Yes.  
5 Q. Do you remember how I talked about how  
6 the same store, same month can order and then  
7 reorder and then reorder during the same  
8 month, and the subsequent orders would not be  
9 run through the SOM system?  
10 Do you remember that, that it wouldn't  
11 be looked at?  
12 MR. BUSH: Objection.  
13 BY MR. BAKER:  
14 Q. Do you remember that?  
15 A. I believe so, yes.  
16 Q. That offers the opportunity out there  
17 for somebody to way over-order during the same  
18 month from the same pharmacy, doesn't it?  
19 MR. BUSH: Objection.  
20 BY MR. BAKER:  
21 Q. Doesn't it?  
22 A. Potentially.  
23 MR. BUSH: Objection.  
24 A. Potentially, yes.

Page 298	Page 300
<p>1 BY MR. BAKER:</p> <p>2 Q. And this definition of suspicious</p> <p>3 order requires X plus three -- three times X</p> <p>4 in the subsequent month for it to even be</p> <p>5 considered suspicious based upon a three-month</p> <p>6 prior lag, correct?</p> <p>7 MR. BUSH: Objection.</p> <p>8 A. Based upon the way this is written,</p> <p>9 correct.</p> <p>10 BY MR. BAKER:</p> <p>11 Q. How do you feel about that, knowing</p> <p>12 that that's the way it was, knowing that you</p> <p>13 could do same stuff, same store, same month</p> <p>14 order and have a definition as liberal as this</p> <p>15 as to what a suspicious order should be?</p> <p>16 MR. BUSH: Objection. Misstates</p> <p>17 the record.</p> <p>18 A. I don't know. I mean, I -- I...</p> <p>19 BY MR. BAKER:</p> <p>20 Q. You don't know how you feel?</p> <p>21 A. I --</p> <p>22 MR. BUSH: Objection.</p> <p>23 BY MR. BAKER:</p> <p>24 Q. The opioid crisis going on; people</p>	<p>1 national in scope, right?</p> <p>2 A. Correct.</p> <p>3 Q. Every single state was measured under</p> <p>4 this suspicious order monitoring system,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And over 9,500 pharmacy stores</p> <p>8 throughout the United States that CVS owns are</p> <p>9 being monitored under this system, correct?</p> <p>10 A. That is correct, yes.</p> <p>11 Q. Were you interviewed for a magazine</p> <p>12 article concerning "CVS Health Supply Chains</p> <p>13 Vigor Relies on Critical Link"?</p> <p>14 That's the name of the article,</p> <p>15 correct?</p> <p>16 Do you remember being interviewed for</p> <p>17 that article?</p> <p>18 A. Yeah, I've been interviewed by a</p> <p>19 number of different --</p> <p>20 Q. Would you like to see it?</p> <p>21 A. Sure.</p> <p>22 (Witness reviews document.)</p> <p>23 Yeah.</p> <p>24 MR. BUSH: May I see it?</p>
Page 299	Page 301
<p>1 dying.</p> <p>2 MR. BUSH: Objection. I'm not</p> <p>3 sure that's a question.</p> <p>4 BY MR. BAKER:</p> <p>5 Q. How do you feel about that as a</p> <p>6 manager?</p> <p>7 A. I'm --</p> <p>8 MR. BUSH: Objection.</p> <p>9 A. -- just not sure that that was the</p> <p>10 inappropriate protocol, based upon everything</p> <p>11 else that was taking place.</p> <p>12 And, again, you know, during this</p> <p>13 period of time in 2011, you know, it was</p> <p>14 not -- it was not part of my organization and</p> <p>15 I was not, you know, privy to a lot of that</p> <p>16 information.</p> <p>17 BY MR. BAKER:</p> <p>18 Q. We went over that list of DCs,</p> <p>19 distribution centers, in Exhibit 60, and there</p> <p>20 were 19, correct?</p> <p>21 A. Correct.</p> <p>22 Q. This program that we're talking about,</p> <p>23 this suspicious order monitoring program that</p> <p>24 we've gone over in these documents, this is</p>	<p>1 MR. BAKER: Sure.</p> <p>2</p> <p>3 (Brief pause in proceedings.)</p> <p>4</p> <p>5 BY MR. BAKER:</p> <p>6 Q. Now, this was April 10 of 2017,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, this quotes you. I want to ask</p> <p>10 you if you made this quote.</p> <p>11 "The supply chains" -- "The supply</p> <p>12 chain has needed to keep pace with the</p> <p>13 company's growth. I've always been very, very</p> <p>14 proud of our infrastructure, our capability,</p> <p>15 and the investments we have made in our</p> <p>16 assets, technology, and people."</p> <p>17 A. Correct.</p> <p>18 Q. Did you make that statement?</p> <p>19 A. I did.</p> <p>20 Q. Having reviewed these documents, are</p> <p>21 you proud of that now?</p> <p>22 Yes or no?</p> <p>23 A. Yes, I am.</p> <p>24 Q. You're proud of that system?</p>

Page 302

1 A. Yeah, I am proud of our total  
2 logistics and supply chain system.  
3 Q. You're proud of a system that doesn't  
4 monitor same store, same store orders --  
5 MR. BUSH: Objection.  
6 Q. -- for narcotics?  
7 You're proud of that?  
8 MR. BUSH: Objection.  
9 A. I believe that the system that we have  
10 in place does monitor store orders  
11 appropriately.  
12 BY MR. BAKER:  
13 Q. You had nothing to do with the  
14 suspicious order monitoring system directly,  
15 did you?  
16 A. I did not.  
17 Q. You had nothing the -- no knowledge of  
18 how it even worked, did you?  
19 A. I had a team of people within  
20 logistics and outside of logistics that had  
21 direct responsibility for managing and  
22 building that system.  
23 Q. Now, you just made a statement about  
24 how proud of the system you were, but you had

Page 303

1 no knowledge of the fact that even the system  
2 was based upon thresholds, did you?  
3 A. I did not have deep knowledge and --  
4 of what -- of how the system had to be built  
5 or the way it was designed.  
6 Q. Let's just get to the skinny of this.  
7 Before today you had no knowledge of  
8 even what a threshold was, did you?  
9 MR. BUSH: Objection.  
10 A. I -- I had no requirement to  
11 understand what a threshold was.  
12 BY MR. BAKER:  
13 Q. Okay. Before today, you had no  
14 knowledge of what a threshold was in the  
15 context of suspicious order monitoring,  
16 correct?  
17 A. That is correct.  
18 Q. Before today, you had no knowledge of  
19 what an internal review report was in the  
20 context of suspicious order monitoring,  
21 correct?  
22 A. That is correct.  
23 Q. Before today, you had no knowledge of  
24 the fact that CVS had an algorithm-based

Page 304

1 software system that was part of its  
2 suspicious order monitoring system, correct?  
3 A. Correct.  
4 Q. Before today, you really have no basis  
5 to know whether you even have a genuine  
6 evidence-based assumption to be proud of CVS's  
7 suspicious order monitoring system, correct?  
8 A. That's not correct.  
9 Q. Sir, if you don't know what the  
10 thresholds are, you don't know -- you don't  
11 even know what that is, you don't know what an  
12 IRR is, you don't know what the software  
13 program is, you don't even know that there's  
14 an algorithm-based software program. Wouldn't  
15 you say that you were not familiar with the  
16 suspicious order monitoring system?  
17 A. I was not into the deep detail, but I  
18 have a high degree of confidence that people  
19 on my team and that the people within the  
20 organization were deeply involved in  
21 monitoring and building a solution that  
22 ultimately filled the requirements that were  
23 required of the DEA.  
24 Q. So you were proud of the people that

Page 305

1 worked for you on the SOM team, correct?  
2 A. Correct.  
3 Q. And they were happy to be there,  
4 correct?  
5 A. Yes.  
6 Q. Let me ask you to look at Exhibit 40B.  
7  
8 (Exhibit No. 40B marked for  
9 identification.)  
10  
11 BY MR. BAKER:  
12 Q. Now, this is an e-mail dated  
13 9/27/2013, and it's from William Jusko to Mark  
14 Nicastro.  
15 Do you know who William Jusko is?  
16 A. I do.  
17 Q. Who is he?  
18 A. He was a regional director for DC  
19 operations.  
20 Q. And then below that is an e-mail from  
21 Mark Nicastro to Dean Vanelli, including  
22 William Jusko, correct?  
23 A. Correct.  
24 Q. And it's September 27, 2013. Would

Page 306	Page 308
<p>1 you read along with me, regarding SOM?</p> <p>2 A. Yes.</p> <p>3 Q. It says "I met with Steve Churchill,</p> <p>4 DEA consultant, this morning. We were talking</p> <p>5 about the Kelly and Shauna."</p> <p>6 Now that's Kelly Baker and Shauna</p> <p>7 Helfrich, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know who Shauna Helfrich is?</p> <p>10 A. She worked in the Indianapolis</p> <p>11 distribution center.</p> <p>12 Q. Do you know what she was? What her</p> <p>13 title was or what she did?</p> <p>14 A. I believe she had a role in working</p> <p>15 with the suspicious order monitoring system,</p> <p>16 but I don't know what her title was.</p> <p>17 Q. It says "We were talking about Kelly</p> <p>18 and Shauna, and he told me Kelly has a phone</p> <p>19 interview. No surprise."</p> <p>20 Do you see that?</p> <p>21 A. I see that.</p> <p>22 Q. Kelly's looking for another job,</p> <p>23 right, at that point?</p> <p>24 A. It appears that way.</p>	<p>1</p> <p>2</p> <p>3 (Exhibit No. 111 marked for</p> <p>4 identification.)</p> <p>5</p> <p>6 BY MR. BAKER:</p> <p>7 Q. Now, before you look at that, is it</p> <p>8 important to have the suspicious order</p> <p>9 monitoring system properly staffed and</p> <p>10 properly equipped --</p> <p>11 A. Yes.</p> <p>12 Q. -- in order for it to operate</p> <p>13 properly?</p> <p>14 A. Yes.</p> <p>15 Q. If it's not properly staffed and not</p> <p>16 properly equipped, it's not going to operate</p> <p>17 properly, correct?</p> <p>18 A. Correct.</p> <p>19 Q. It's not going to be DEA compliant at</p> <p>20 that point, correct?</p> <p>21 A. It still could be DEA compliant if</p> <p>22 you're potentially getting through all the</p> <p>23 work that needs to be done.</p> <p>24 Q. Let's look at this.</p>
Page 307	Page 309
<p>1 Q. It says "However, Shauna has been</p> <p>2 offered a position with the law firm she used</p> <p>3 to work with and it's more money."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. It says "I'll talk to her today, but</p> <p>7 we could be in trouble fast."</p> <p>8 Do you see that?</p> <p>9 A. I see that in the e-mail, yes.</p> <p>10 Q. It looks like Kelly and Shauna are</p> <p>11 both leaving, correct?</p> <p>12 MR. BUSH: Objection.</p> <p>13 BY MR. BAKER:</p> <p>14 Q. Doesn't it?</p> <p>15 A. It appears that they might be</p> <p>16 entertaining another job opportunity.</p> <p>17 Q. And do you know why that would be?</p> <p>18 A. I do not.</p> <p>19 Q. Did you ever talk to Mr. Burtner about</p> <p>20 employee morale, employee performance within</p> <p>21 the SOM system?</p> <p>22 A. Mr. Burtner, no.</p> <p>23 Q. Let me ask you to look at Exhibit 111,</p> <p>24 please.</p>	<p>1 On page 3 of that document, there's an</p> <p>2 e-mail dated 9/17/2013. It's from Aaron</p> <p>3 Burtner to Andy Eck.</p> <p>4 Now, Aaron Burtner left CVS in late</p> <p>5 2013, did he not?</p> <p>6 A. I'm not sure.</p> <p>7 Q. It goes on to state here, and they're</p> <p>8 talking about Kelly Baker? Can you read down</p> <p>9 below that.</p> <p>10 A. (Witness reviews document.)</p> <p>11 Q. Well, let me ask you, look at that</p> <p>12 e-mail. Do you know who's -- who they're</p> <p>13 talking about?</p> <p>14 MR. BUSH: I'm sorry, which</p> <p>15 e-mail, Bill?</p> <p>16 A. I don't.</p> <p>17 MR. BAKER: We're looking at</p> <p>18 9/17/2013.</p> <p>19 MR. BUSH: The top e-mail?</p> <p>20 MR. BAKER: Yes.</p> <p>21 BY MR. BAKER:</p> <p>22 Q. It says "Yeah," -- look at the</p> <p>23 bottom.</p> <p>24 It's talking here, it says, at the</p>



Page 310	Page 312
<p>1 bottom, September 17, 2013, at the bottom. Do</p> <p>2 you see that at the bottom of this page?</p> <p>3 A. Yes.</p> <p>4 Q. Bates 99708.</p> <p>5 A. Yeah.</p> <p>6 Q. It's from Andy Eck to Aaron Burtner.</p> <p>7 It says "Kelly is off his rocker."</p> <p>8 Do you see that?</p> <p>9 A. I see it on the document, yes.</p> <p>10 Q. Now, you see above that it says "I</p> <p>11 worry about his mental stability at this</p> <p>12 point, too."</p> <p>13 Do you see that?</p> <p>14 Look. "I worry about his mental</p> <p>15 stability at this point, too."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Do you see above that, it says "He is</p> <p>19 not stable. Shauna is worried about him and</p> <p>20 tells me that he's pretty much over the SOM.</p> <p>21 This -- then he leaves her reports that she's</p> <p>22 not familiar with."</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>	<p>1 A. Yes.</p> <p>2 Q. Burtner's preparing to leave, to go to</p> <p>3 Amazon, correct?</p> <p>4 MR. BUSH: Objection.</p> <p>5 BY MR. BAKER:</p> <p>6 Q. Right?</p> <p>7 A. Again, it's the first time I'm seeing</p> <p>8 these documents, and I really don't know.</p> <p>9 Q. Well, Burtner left to go to work for</p> <p>10 Amazon in Seattle, did he not?</p> <p>11 A. I don't know. I mean, the only way I</p> <p>12 know it is because of the e-mail address.</p> <p>13 Q. Look at where it's being sent from.</p> <p>14 Amazon Global Security. Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. He had already left. He's already</p> <p>17 gone, right?</p> <p>18 MR. BUSH: Objection.</p> <p>19 BY MR. BAKER:</p> <p>20 Q. Right?</p> <p>21 A. Yes.</p> <p>22 Q. So Aaron Burtner is at Amazon sending</p> <p>23 this e-mail to Andy Eck, correct?</p> <p>24 A. Yes.</p>
Page 311	Page 313
<p>1 Q. Going above that, and this is Aaron</p> <p>2 Burtner to Andy Eck, "Yeah, he's completely</p> <p>3 over it. He's doing his job and my old job</p> <p>4 but only being paid for one."</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. So at this point, Burtner is no longer</p> <p>8 doing suspicious order monitoring, correct?</p> <p>9 MR. BUSH: Objection.</p> <p>10 BY MR. BAKER:</p> <p>11 Q. Is that right?</p> <p>12 MR. BUSH: Objection.</p> <p>13 A. It appears -- I believe he still is.</p> <p>14 BY MR. BAKER:</p> <p>15 Q. But he's -- he's passed off his</p> <p>16 responsibilities to Kelly Baker, at least</p> <p>17 according to this, because he says "Yeah, he's</p> <p>18 completely over it. He's doing my -- his job</p> <p>19 and my old job but only being paid for one,"</p> <p>20 correct?</p> <p>21 MR. BUSH: Objection.</p> <p>22 A. Yes.</p> <p>23 BY MR. BAKER:</p> <p>24 Q. Yes?</p>	<p>1 Q. So, basically, you have Kelly Baker</p> <p>2 doing Aaron Burtner's old job at this point,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 MR. BUSH: Objection.</p> <p>6 BY MR. BAKER:</p> <p>7 Q. Right?</p> <p>8 A. Yes.</p> <p>9 Q. And --</p> <p>10 MR. BUSH: Objection.</p> <p>11 Q. -- according to this e-mail, he's not</p> <p>12 mentally stable, correct?</p> <p>13 MR. BUSH: Objection.</p> <p>14 A. I -- I -- it's just his -- his wording</p> <p>15 interpretation, and I don't believe that would</p> <p>16 be the case.</p> <p>17 BY MR. BAKER:</p> <p>18 Q. And according to Kelly Baker's e-mail,</p> <p>19 the data he's being provided was pointless and</p> <p>20 irrelevant for use in terms of his doing his</p> <p>21 job in suspicious order monitoring. Do you</p> <p>22 remember that?</p> <p>23 MR. BUSH: Objection.</p> <p>24 A. I don't remember any of this. This is</p>

Page 314

1 the first time I'm seeing this.  
2 BY MR. BAKER:  
3 Q. Do you remember the document that I  
4 just showed you today that said that?  
5 A. Yes, yes.  
6 Q. So according to Kelly Baker, who is in  
7 SOM at the time --  
8 A. Yes.  
9 Q. -- he's being provided historical data  
10 to do an analysis that to him the way he's  
11 looking at this is pointless and irrelevant,  
12 correct?  
13 MR. BUSH: Objection.  
14 BY MR. BAKER:  
15 Q. That's what he says?  
16 A. That's what he's saying. That's his  
17 interpretation, yes.  
18 Q. Yes?  
19 A. Yes.  
20 Q. And then we have Mr. Burtner telling  
21 Mr. Eck, Mr. Burtner's gone and he's e-mailing  
22 him from Amazon, correct?  
23 MR. BUSH: Objection.  
24 BY MR. BAKER:

Page 315

1 Q. Right?  
2 A. That's what it says.  
3 Q. And Mr. Burtner says "Yeah, he's  
4 completely over it. He's doing his job and my  
5 old job," talking about Kelly Baker,  
6 correct?  
7 MR. BUSH: Objection.  
8 BY MR. BAKER:  
9 Q. Right?  
10 A. Yes.  
11 Q. "...but only being paid for one."  
12 Correct?  
13 MR. BUSH: Objection.  
14 A. That's what it says.  
15 BY MR. BAKER:  
16 Q. That's what it says?  
17 A. That's what it says in the e-mail.  
18 Q. It says "Then he finds out they are  
19 moving the SOM to Woonsocket, so he really has  
20 no motivation at this point."  
21 Isn't that what it says?  
22 A. Where does it say that?  
23 Q. The second sentence here. "Then he  
24 finds out they are moving the SOM to

Page 316

1 Woonsocket" --  
2 A. Yes.  
3 Q. -- "so he really has no motivation."  
4 A. That's what it says.  
5 Q. Right?  
6 A. That's what it says.  
7 Q. Do you remember the e-mail that I  
8 showed you earlier today?  
9 Please look at me.  
10 You remember the e-mail that I showed  
11 you earlier today where I pointed out to you  
12 that there was -- that Tom Bourque had talked  
13 about moving it away from Indiana --  
14 A. Correct.  
15 Q. -- because there was no tip-off that  
16 the DEA was coming? Do you remember that?  
17 MR. BUSH: Objection.  
18 Objection. Misstates the record.  
19 A. I remember -- I remember you  
20 referencing that, yes.  
21 BY MR. BAKER:  
22 Q. And they wanted to move it to  
23 Woonsocket, Rhode Island in corporate, right?  
24 A. Correct.

Page 317

1 Q. And so at this point, apparently, you  
2 have Kelly Baker doing two jobs but being paid  
3 for one, according to Aaron Burtner, at least  
4 in this e-mail, right?  
5 A. That's --  
6 MR. BUSH: Objection.  
7 A. -- what the e-mail says.  
8 BY MR. BAKER:  
9 Q. And then he finds out -- talking about  
10 Kelly finds out that they're moving the whole  
11 operation anyway, SOM to Woonsocket, so he  
12 really has no motivation at that point,  
13 right?  
14 MR. BUSH: Objection.  
15 A. That's what states in the e-mail from  
16 Aaron Burtner, I guess his opinion.  
17 BY MR. BAKER:  
18 Q. And then it says "Also the DEA  
19 consultant told him his salary is about half  
20 that of most SOM managers."  
21 Do you see that?  
22 A. I do.  
23 Q. How much was he being paid?  
24 A. I don't know.

Page 318	Page 320
<p>1 MR. BUSH: Objection.</p> <p>2 BY MR. BAKER:</p> <p>3 Q. Was his salary half of that of most</p> <p>4 SOM managers?</p> <p>5 A. I don't know.</p> <p>6 Q. Was he your SOM manager at the time?</p> <p>7 A. I don't believe he was the SOM</p> <p>8 manager.</p> <p>9 Q. You don't know one way or the other,</p> <p>10 do you?</p> <p>11 A. I don't.</p> <p>12 Q. The next sentence of Aaron Burtner to</p> <p>13 Andy Eck in this e-mail says "Seems like CVS</p> <p>14 is in the business of screwing people over</p> <p>15 until they've had enough and move on."</p> <p>16 That's what Mr. Burtner says about CVS</p> <p>17 at that point, September 2013, correct?</p> <p>18 A. That's what the e-mail says.</p> <p>19 Q. And Mr. Burtner is a former employee</p> <p>20 of CVS, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Let me ask you to go back to</p> <p>23 Exhibit 40B that you've already looked at.</p> <p>24 MR. BUSH: What does it look</p>	<p>1 Q. This November 8, 2013, correct?</p> <p>2 A. That's correct.</p> <p>3 Q. So this time when you were without an</p> <p>4 SOM manager -- remember back in August we</p> <p>5 showed you an e-mail --</p> <p>6 A. Yeah.</p> <p>7 Q. -- where you had no SOM manager?</p> <p>8 MR. BUSH: Objection.</p> <p>9 BY MR. BAKER:</p> <p>10 Q. Do you remember that?</p> <p>11 MR. BUSH: Objection.</p> <p>12 A. I remember the timeline that you are</p> <p>13 referencing, yes.</p> <p>14 BY MR. BAKER:</p> <p>15 Q. And you remember that they were</p> <p>16 interviewing somebody, they hoped to hire</p> <p>17 somebody? Do you remember that?</p> <p>18 MR. BUSH: Objection.</p> <p>19 A. What I do remember is that the</p> <p>20 involvement here, this was all part of loss</p> <p>21 prevention because Judy and that whole team,</p> <p>22 they were actually involved with the hiring</p> <p>23 process.</p> <p>24 So my clarity or understanding of</p>
Page 319	Page 321
<p>1 like?</p> <p>2 MR. BAKER: It's an e-mail dated</p> <p>3 9/27/10 on the front, Bates 17250.</p> <p>4 MR. BUSH: I've got it. Thank</p> <p>5 you.</p> <p>6 BY MR. BAKER:</p> <p>7 Q. You if go to the third page,</p> <p>8 November 8, 2013.</p> <p>9 A. Okay.</p> <p>10 MR. BUSH: Show me that.</p> <p>11 MR. BAKER: Bates 17256 at the</p> <p>12 top.</p> <p>13 MR. BUSH: Got it.</p> <p>14 BY MR. BAKER:</p> <p>15 Q. An e-mail, November 8, 2013, from John</p> <p>16 Mortelliti to various people in CVS. Do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 Q. It says "Hi, Angela. Shauna is</p> <p>20 replacing our SOM manager and is responsible</p> <p>21 for DEA compliance. I believe Judy was</p> <p>22 involved in giving her predecessor access."</p> <p>23 Do you see that?</p> <p>24 A. Yeah.</p>	<p>1 what -- again, this is the first time seeing</p> <p>2 these e-mails, too. But, again, it's...</p> <p>3 BY MR. BAKER:</p> <p>4 Q. Well, anyway, this says "Shauna is</p> <p>5 replacing our SOM manager and is responsible</p> <p>6 for DEA compliance," correct?</p> <p>7 A. That's correct.</p> <p>8 Q. So Shauna Helfrich was the person who</p> <p>9 actually got hired to be the SOM manager,</p> <p>10 correct?</p> <p>11 A. That's correct.</p> <p>12 MR. BUSH: Objection.</p> <p>13 MR. BAKER: Excuse me. What's</p> <p>14 the objection?</p> <p>15 MR. BUSH: There's no basis for</p> <p>16 him to know that other than reading the</p> <p>17 document that you put in front of him.</p> <p>18 BY MR. BAKER:</p> <p>19 Q. Well, this document indicates that</p> <p>20 Shauna Helfrich was hired, correct?</p> <p>21 A. That's -- that's the -- that's my</p> <p>22 interpretation of that from the document,</p> <p>23 correct.</p> <p>24 Q. And that she was hired in November of</p>

<p style="text-align: right;">Page 322</p> <p>1 2013, correct?</p> <p>2 A. It appears to be that.</p> <p>3 Q. Now, even when this new system was</p> <p>4 rolled out, there were multiple criticisms of</p> <p>5 that program within the risk analysis run by</p> <p>6 CVS, correct?</p> <p>7 MR. BUSH: Objection.</p> <p>8 A. I am not aware of any criticisms.</p> <p>9 BY MR. BAKER:</p> <p>10 Q. Let me ask you to turn to Exhibit 105,</p> <p>11 please.</p> <p>12</p> <p>13 (Exhibit No. 105 marked for</p> <p>14 identification.)</p> <p>15</p> <p>16 BY MR. BAKER:</p> <p>17 Q. Now, this is a document entitled "SOM</p> <p>18 Risk Analysis."</p> <p>19 Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. On the left-hand side of the page, it</p> <p>22 says "Potential risk." In the middle, it says</p> <p>23 "Comments." And in the -- on the right, it</p> <p>24 says "Remediation Plan."</p>	<p style="text-align: right;">Page 324</p> <p>1 Your Customer" expectation."</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. It says "This could lead to</p> <p>5 inconsistencies in the though (sic) process of</p> <p>6 what orders should be released or blocked."</p> <p>7 Isn't that what it says?</p> <p>8 A. That's what it says.</p> <p>9 Q. And the risk level associated with</p> <p>10 that right next to it is high.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. If you go down to the next document.</p> <p>14 MR. BUSH: The next document?</p> <p>15 BY MR. BAKER:</p> <p>16 Q. Excuse me. Go over to the comment</p> <p>17 next to it. I'm sorry.</p> <p>18 A. Uh-huh.</p> <p>19 Q. It says "In May, the following is the</p> <p>20 percentage of calls each team member made for</p> <p>21 flagged orders."</p> <p>22 Now you know what a flagged order is</p> <p>23 by now, don't you?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 323</p> <p>1 Correct?</p> <p>2 A. Correct.</p> <p>3 MR. BAKER: If you could bold</p> <p>4 that first box on the left and bring it out.</p> <p>5 BY MR. BAKER:</p> <p>6 Q. The first potential risk, it says "The</p> <p>7 SOM team is inconsistent with the way they</p> <p>8 perform their due diligence."</p> <p>9 Do you know what "due diligence" means</p> <p>10 in the context of SOM?</p> <p>11 Yes or no?</p> <p>12 A. That would be -- my interpretation of</p> <p>13 that would be how they're doing their review.</p> <p>14 Q. Do you know what the portion of their</p> <p>15 review is that's labeled "due diligence"? Do</p> <p>16 you know what that means?</p> <p>17 A. No.</p> <p>18 Q. Do you know what's required in order</p> <p>19 to perform due diligence in the context of the</p> <p>20 SOM process? Yes or no?</p> <p>21 A. No.</p> <p>22 Q. It says "Not each team member is</p> <p>23 aligned with the importance of reaching out to</p> <p>24 our stores in order to comply with the "Know</p>	<p style="text-align: right;">Page 325</p> <p>1 Q. What's it mean?</p> <p>2 A. It's an order that was flagged</p> <p>3 because, again, the frequency of the order,</p> <p>4 the size of the order tripped the system to</p> <p>5 ultimately say it needs to be reviewed.</p> <p>6 Q. With due diligence, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And due diligence, part of that is</p> <p>9 reaching out to the store, calling the store</p> <p>10 to figure out what's going on, correct?</p> <p>11 MR. BUSH: Objection.</p> <p>12 A. It appears to be.</p> <p>13 BY MR. BAKER:</p> <p>14 Q. And it says "In May, the following is</p> <p>15 percentage of calls each team member made for</p> <p>16 flagged orders: Annette, 19 percent. Colule</p> <p>17 (phonetic) 15 percent. Noah, 13 percent.</p> <p>18 Caitlyn, 7 percent. Shan, 4 percent."</p> <p>19 Correct?</p> <p>20 A. That's what it says.</p> <p>21 Q. They're supposed to call 100 percent</p> <p>22 of the time, are they not?</p> <p>23 MR. BUSH: Objection.</p> <p>24 A. I don't know. I don't know if it's</p>

<p style="text-align: right;">Page 326</p> <p>1 100 percent of the time.</p> <p>2 BY MR. BAKER:</p> <p>3 Q. Well, this is one of potential risks</p> <p>4 and this is one of problems that's identified,</p> <p>5 right?</p> <p>6 MR. BUSH: Objection.</p> <p>7 A. (Witness nodding.)</p> <p>8 BY MR. BAKER:</p> <p>9 Q. Right?</p> <p>10 A. (Witness nodding.)</p> <p>11 Yes.</p> <p>12 Q. You have people with flagged orders</p> <p>13 calling as little as 4 percent of the time to</p> <p>14 a pharmacy to do due diligence, correct?</p> <p>15 MR. BUSH: Objection.</p> <p>16 BY MR. BAKER:</p> <p>17 Q. Right?</p> <p>18 A. That's what it says --</p> <p>19 MR. BUSH: Objection.</p> <p>20 A. -- on the document, yeah.</p> <p>21 BY MR. BAKER:</p> <p>22 Q. Go down to the Potential Risk No. 2.</p> <p>23 It says "The SOM team is inconsistent</p> <p>24 in the way they document their due diligence.</p>	<p style="text-align: right;">Page 328</p> <p>1 gone into any detail about, you know,</p> <p>2 reviewing your job or your scope of their</p> <p>3 jobs.</p> <p>4 Q. Well, you were not competent to do so</p> <p>5 because you didn't know anything about the</p> <p>6 system itself, really, did you?</p> <p>7 A. That's correct.</p> <p>8 Q. Let's go to the next potential risk.</p> <p>9 It says "Lack of communication with</p> <p>10 the SOM management team to the SOM analyst, as</p> <p>11 well as lack of foresight by the management</p> <p>12 team."</p> <p>13 You know what that means, don't you?</p> <p>14 A. Yeah, that's what it says.</p> <p>15 Q. That risk is high, correct?</p> <p>16 A. That's what it says, yeah.</p> <p>17 Q. Go to the first sentence here. Pull</p> <p>18 this out.</p> <p>19 It says "The management team does not</p> <p>20 do an effective job at communicating to the</p> <p>21 job analysts, which in turn hurts their</p> <p>22 productions."</p> <p>23 Correct?</p> <p>24 A. Correct.</p>
<p style="text-align: right;">Page 327</p> <p>1 Inconsistency in documentation styles and</p> <p>2 approach may need lead to the team being</p> <p>3 inefficient in completing their daily</p> <p>4 workload. Also, without uniform approach to</p> <p>5 the documentation process, the team may not be</p> <p>6 ensuring all appropriate documentation is</p> <p>7 being captured."</p> <p>8 That risk is high, correct?</p> <p>9 A. Yes that's what it says on the</p> <p>10 document, yeah.</p> <p>11 Q. Go down to the next criticism.</p> <p>12 It says "Lack of engagement by</p> <p>13 management team."</p> <p>14 Now let's go over to the next box</p> <p>15 where it's talking about the comments with</p> <p>16 respect to that. Pull that out.</p> <p>17 It says "The team is not receiving the</p> <p>18 support and guidance they need to effectively</p> <p>19 do their jobs."</p> <p>20 Correct?</p> <p>21 A. That's what it says on the document.</p> <p>22 Q. You certainly never talked to any of</p> <p>23 these team members, did you?</p> <p>24 A. I have talked to them, but I have not</p>	<p style="text-align: right;">Page 329</p> <p>1 Q. Isn't that right?</p> <p>2 A. That's correct.</p> <p>3 Q. And you certainly never talked to</p> <p>4 them, correct?</p> <p>5 A. No, no.</p> <p>6 Q. That's a correct statement?</p> <p>7 A. That is correct.</p> <p>8 Q. Well, let's go down to the next one.</p> <p>9 It says "Lack of resources to handle</p> <p>10 the rollout of the distribution of all</p> <p>11 distribution centers."</p> <p>12 Now this is in 2014, correct?</p> <p>13 MR. BUSH: Objection.</p> <p>14 A. I don't know.</p> <p>15 BY MR. BAKER:</p> <p>16 Q. It says "This could freeze the rollout</p> <p>17 the remaining six DC or cause them to learn --</p> <p>18 to not -- to not get to every flagged order</p> <p>19 each day," correct?</p> <p>20 A. That's what it says.</p> <p>21 Q. Let's go to the next one.</p> <p>22 It says "Today we are unclear how well</p> <p>23 the system is identifying orders that should</p> <p>24 actually be flagged."</p>



Page 330

1 Correct?  
2 A. That's what it says.  
3 Q. Let's go to the next one.  
4 Then it says "The SOM is not flagging  
5 the drugs which are diverted the most at our  
6 retail locations at a high enough rate."  
7 Correct?  
8 A. That's what it says, yes.  
9 Q. Let me stop and ask you, do you  
10 remember those stores I was telling you about  
11 where you had 1.8, 1.9 million pills going  
12 into a small population store?  
13 A. Yeah.  
14 Q. Do you remember that?  
15 A. Yeah, yeah.  
16 Q. That's a problem, isn't it?  
17 A. It is.  
18 MR. BUSH: Objection.  
19 BY MR. BAKER:  
20 Q. Right. So let's go to the next one.  
21 "Not all team members" --  
22 MR. BUSH: You need to give me a  
23 chance to object.  
24 BY MR. BAKER:

Page 331

1 Q. "Not all team members are adhering to  
2 CVS standard operation -- operating procedures  
3 of working cases in the order they are  
4 presented in the queue," correct?  
5 A. That's what it says.  
6 Q. Did you talk to them about that?  
7 Did you have anybody talk to them  
8 about that?  
9 A. I'm sure some of my team members did  
10 talk to them about that.  
11 Q. Do you know that for a fact, or are  
12 you just assuming that?  
13 A. I'm assuming that.  
14 Q. Well, you also saw up there where  
15 management doesn't communicate with these  
16 people. Remember, that was a problem,  
17 right?  
18 MR. BUSH: Objection.  
19 BY MR. BAKER:  
20 Q. Right?  
21 A. Yes.  
22 Q. So for you to say that, you're just  
23 purely speculating that they did talk to them,  
24 correct?

Page 332

1 MR. BUSH: Objection.  
2 Argumentative.  
3 BY MR. BAKER:  
4 Q. Aren't you? Aren't you?  
5 A. Yes.  
6 Q. Let's go to the next one.  
7 It says "The SOM team is not trending  
8 any of the information or cases that they are  
9 seeing. The SOM team only handles cases that  
10 are flagged and not proactively working to  
11 identify trends."  
12 Do you see that?  
13 A. I do.  
14 Q. These are problems associated with the  
15 rollout of the new system, correct?  
16 MR. BUSH: Objection.  
17 A. I'm not aware of the timing. I don't  
18 see anything that shows a date on this  
19 document.  
20 BY MR. BAKER:  
21 Q. Have you ever reviewed an internal  
22 review report, an IRR?  
23 A. I have not.  
24 Q. Are you aware that ARCOS data -- well,

Page 333

1 first of all, you don't know what ARCOS data  
2 is, right?  
3 A. I have not spent time with ARCOS data.  
4 MR. BAKER: I'm going to turn it  
5 over to my partner, Mr. Jim DeRoche. He's  
6 going to go through some of that data with  
7 you.  
8 THE WITNESS: Okay.  
9 MR. BUSH: Is this a good time  
10 for a break, a five-minute break?  
11 THE VIDEOGRAPHER: The time  
12 is --  
13 MR. BUSH: You're done, Bill?  
14 MR. BAKER: Hold on.  
15 MR. BUSH: Hold on.  
16 (Brief pause in proceedings.)  
17 MR. BAKER: I tell you what,  
18 let's do one more document.  
19  
20 (Exhibit No. 35 marked for  
21 identification.)  
22  
23 BY MR. BAKER:  
24 Q. I'm showing you Exhibit No. 35. This,

Page 334

1 again, is a document that you've already seen.  
2 Well, maybe not.  
3 It's one related to the DEA visits in  
4 August. Do you see that?  
5 A. I do.  
6 Q. Go to page 2 under the "Comments"  
7 section.  
8 Now go to the second flag there. Do  
9 you see that second --  
10 MR. BUSH: Bullet point.  
11 BY MR. BAKER:  
12 Q. -- bullet point, yes. I'm sorry.  
13 It says "Madeline made several  
14 comments during her visit. She suggested that  
15 CVS receive a DEA briefing. She mentioned it  
16 several times and thought it would be  
17 beneficial to understand suspicious ordering."  
18 Do you see that?  
19 A. I do see that.  
20 Q. Did you ever attend that DEA briefing  
21 on suspicious ordering?  
22 A. I did not. Never did.  
23 Q. Then it says "The DEA expects  
24 registrants to know their customer and who

Page 335

1 they are buying from," correct?  
2 A. Correct.  
3 Q. It also states, "The DEA needs to be  
4 aware -- needs to be made aware of orders that  
5 raise flags," correct?  
6 MR. BUSH: That's what it says  
7 you mean?  
8 BY MR. BAKER:  
9 Q. That's what it says?  
10 A. That's what it says.  
11 Q. And do you remember earlier today  
12 where the document within CVS said that you  
13 shouldn't just take an order that breaches the  
14 threshold and go decrease it and then ship it,  
15 that you should report it instead?  
16 A. Correct.  
17 Q. Do you remember that?  
18 A. Correct, correct.  
19 Q. That's an order that raises flags,  
20 right?  
21 A. Yes.  
22 Q. Do you know how many times that CVS  
23 did that, where they took an order that raised  
24 the flag and then decreased the order down

Page 336

1 just enough to ship it --  
2 A. I do not.  
3 Q. -- and then didn't report it to the  
4 DEA?  
5 A. Do not.  
6 Q. Do you know how many of those people  
7 would have ordered same time, same store, same  
8 month? Do you have any idea of that?  
9 A. No idea. No idea.  
10 MR. BAKER: Let's take a break.  
11 MR. BUSH: Bill, you're done?  
12 MR. BAKER: For right now. I'm  
13 going to check over my outline. I'm going to  
14 try to get you out of here.  
15 THE VIDEOGRAPHER: The time is  
16 2:47 p.m. We're off the record.  
17  
18 (Recess taken from 2:47 p.m.  
19 to 3:02 p.m.)  
20  
21  
22 THE VIDEOGRAPHER: The time is  
23 3:02 p.m., and we're on the record.  
24

Page 337

1 CROSS-EXAMINATION  
2 BY MR. DEROCHÉ:  
3 Q. Mr. Link, my name is Jim DeRoche.  
4 A. Hi, Jim.  
5 Q. Just a few follow-up questions for  
6 you.  
7 First of all, I want to show you what  
8 we've marked as Exhibit 221.  
9  
10 (Exhibit No. 221 marked for  
11 identification.)  
12  
13 MR. DEROCHÉ: Let me put a  
14 sticker on that one so it would be official.  
15 MR. BUSH: What did you say it  
16 was? 221?  
17 MR. DEROCHÉ: 221.  
18 BY MR. DEROCHÉ:  
19 Q. I hand you what we've marked as  
20 Exhibit 221.  
21 If you look at the first page of  
22 Exhibit 221. That's an e-mail?  
23 A. Yeah.  
24 Q. I believe you are listed as receiving

<p style="text-align: right;">Page 338</p> <p>1 a copy of that e-mail, correct?</p> <p>2 A. Yes.</p> <p>3 Q. It says Ron Link? Yes?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall receiving this e-mail,</p> <p>6 sir?</p> <p>7 A. I don't recall, but I will say I must</p> <p>8 have been on the distribution, but I don't</p> <p>9 recall seeing the e-mail.</p> <p>10 Q. It was in October of -- October 29,</p> <p>11 2010, correct?</p> <p>12 A. Yeah. I don't -- I don't remember.</p> <p>13 Q. I have attached as a second page, if</p> <p>14 you turn to that page, sir.</p> <p>15 A. Yeah.</p> <p>16 Q. It's logistics core team update?</p> <p>17 A. Yeah.</p> <p>18 Q. Were you working in logistics at the</p> <p>19 time?</p> <p>20 A. I was.</p> <p>21 Q. And under "Pharmacy Compliance," there</p> <p>22 are a number of bullet points.</p> <p>23 The third bullet point down talks</p> <p>24 about the controlled drug suspicious order</p>	<p style="text-align: right;">Page 340</p> <p>1 A. I do.</p> <p>2 Q. So, for instance, if they're ordering</p> <p>3 HCPs, hydrocodone combination products, there</p> <p>4 could be ten or more different products that</p> <p>5 they could order at any one time, correct?</p> <p>6 A. I -- I believe so, but I'm not sure.</p> <p>7 Q. So they could order 100 HCPs made by</p> <p>8 one company, 100 from another, and together</p> <p>9 have 200. And if you're only looking at it</p> <p>10 based on the particular item that's ordered,</p> <p>11 you wouldn't look at it as a 200-item order or</p> <p>12 200-pill order, you would look at it as a</p> <p>13 100-pill order.</p> <p>14 Correct?</p> <p>15 A. From reading this, my -- I'm not sure</p> <p>16 that was -- that would have been my</p> <p>17 interpretation, but...</p> <p>18 Q. Well, you understand this is spreading</p> <p>19 orders among different items, right?</p> <p>20 A. Yes.</p> <p>21 Q. And, again, that could be a problem</p> <p>22 because that could inflate the number of</p> <p>23 overall drugs --</p> <p>24 A. Yeah.</p>
<p style="text-align: right;">Page 339</p> <p>1 monitoring being reworked to identify active</p> <p>2 ingredients versus product name.</p> <p>3 Do you see that, sir?</p> <p>4 A. Yes, I do.</p> <p>5 Q. And that, again, was apparently part</p> <p>6 of what the logistics team that you were the</p> <p>7 head of were working on at the time,</p> <p>8 correct?</p> <p>9 A. Yeah. During 2010, the SOM team was</p> <p>10 part of the logistics, loss prevention</p> <p>11 organization. And that was Frank Devlin.</p> <p>12 Q. And, again, you were copied on this</p> <p>13 e-mail, so you were getting this information</p> <p>14 as well, correct?</p> <p>15 A. It appears that I did, yeah.</p> <p>16 Q. In terms of the problems that were</p> <p>17 associated with using the product name versus</p> <p>18 active ingredient, there are two problems that</p> <p>19 are identified in this document, correct?</p> <p>20 The first was stores spreading orders</p> <p>21 over multiple products.</p> <p>22 Do you see that, sir?</p> <p>23 A. I do.</p> <p>24 Q. You understand what that means?</p>	<p style="text-align: right;">Page 341</p> <p>1 Q. -- that a pharmacy could order?</p> <p>2 A. Yes.</p> <p>3 Q. Correct?</p> <p>4 A. Yes, correct.</p> <p>5 Q. If you're not taking that into account</p> <p>6 in your SOM program, that could be a problem,</p> <p>7 right?</p> <p>8 A. Agree.</p> <p>9 Q. That could be one of the problems that</p> <p>10 might lead to a pharmacy in Indiana in a small</p> <p>11 town getting \$2 million -- two million pills,</p> <p>12 rather, in an 18-month period? It could</p> <p>13 contribute to that, correct?</p> <p>14 A. It could contribute to it, yes, yes.</p> <p>15 Q. The second problem is, again, I think</p> <p>16 something we went over earlier, which was</p> <p>17 the -- when the name change --</p> <p>18 A. Yes.</p> <p>19 Q. -- occurs, you lose the history,</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. And that interferes with the efficacy</p> <p>23 of your SOM program at that point, right?</p> <p>24 A. Yes.</p>

Page 342

1 Q. So it appears that using item instead  
2 of active ingredient in the SOM program at  
3 this point is causing at least two problems  
4 with the SOM program, correct?  
5 A. Based upon this, it appears to be an  
6 opportunity, yes.  
7 Q. Do you know when that was finally  
8 fixed?  
9 A. I don't.  
10 Q. I want to just show you now what we've  
11 marked as Exhibit 222.  
12  
13 (Exhibit No. 222 marked for  
14 identification.)  
15  
16 BY MR. DEROCHE:  
17 Q. I'm going to represent to you that  
18 this is a table that was extracted from  
19 transaction data that pertains to CVS.  
20 A. Okay.  
21 Q. It shows orders for a particular CVS  
22 store that's located on Brookpark Road in  
23 Cleveland, Ohio.  
24 Are you familiar with that store, by

Page 343

1 any chance?  
2 A. No, I'm not.  
3 Q. It's one of 49 stores in Cuyahoga  
4 County, Ohio?  
5 A. Not familiar with the store.  
6 Q. This shows the orders that were placed  
7 for hydrocodone combination products from  
8 1/3/2006 through 9/23/2014, on the last page.  
9 Do you see that, sir?  
10 A. Yes, I do.  
11 Q. A total of a ten-page document?  
12 A. Yeah.  
13 MR. BUSH: Jim, can you just  
14 represent for the record where this comes  
15 from? Is this ARCOS data?  
16 MR. DEROCHE: This is ARCOS,  
17 correct.  
18 BY MR. DEROCHE:  
19 Q. I want to just pick out a couple of  
20 examples that relate to this particular store  
21 on Brookpark Road in Cleveland, Ohio.  
22 First, if you go to page 4 of the  
23 document, sir. If you look at the entry for  
24 6/23/2009. Do you see that, sir?

Page 344

1 A. I do.  
2 Q. That appears to be the fourth time in  
3 that month that the Brookpark store had  
4 ordered hydrocodone combination products.  
5 Correct?  
6 A. Yeah, the fourth time, correct.  
7 Q. Do you see that?  
8 A. Yeah.  
9 Q. And the number of orders is ten  
10 orders. Do you see that, sir --  
11 A. Yes.  
12 Q. -- in the column third -- the fourth  
13 column over?  
14 A. Yeah.  
15 Q. Does that indicate to you that the  
16 Brookpark store is ordering ten different  
17 hydrocodone combination products on that same  
18 date, essentially, spreading their order among  
19 ten different items?  
20 A. I --  
21 MR. BUSH: Objection.  
22 A. Yeah, I don't know, because I don't  
23 understand the detail of the report and what  
24 the number of orders and what it actually

Page 345

1 means.  
2 MR. DEROCHE: Sure, gotcha.  
3 Why don't we give you another exhibit.  
4 Maybe this will help you.  
5  
6 (Exhibit No. 223 marked for  
7 identification.)  
8  
9 MR. DEROCHE: You can look at  
10 them together. Let's go to 223.  
11  
12 BY MR. DEROCHE:  
13 Q. While she's marking it, do you know  
14 what an NDC means?  
15 A. Yes.  
16 Q. It's a unique number that identifies a  
17 particular drug?  
18 A. Yes.  
19 Q. I'm going to show you what's been  
20 marked as 223. If you hold those two  
21 together, I think that might help you.  
22 Again, 223 is a document that -- data  
23 extracted from the ARCOS data provided to us  
24 for Brookpark Road.

<p style="text-align: right;">Page 346</p> <p>1 Do you see that, sir?</p> <p>2 A. I do.</p> <p>3 Q. It's orders placed to the Indianapolis</p> <p>4 DC, and the first grouping of orders is on</p> <p>5 6/23.</p> <p>6 A. Yeah.</p> <p>7 Q. Same date we just looked at, right?</p> <p>8 A. Yeah, correct.</p> <p>9 Q. And it appears to list the ten</p> <p>10 different orders, correct?</p> <p>11 A. It does, yeah.</p> <p>12 Q. And it indicates that they were for</p> <p>13 different NDCs, again, indicating that the</p> <p>14 Brookpark store was spreading its orders among</p> <p>15 these ten different hydrocodone combination</p> <p>16 products, correct?</p> <p>17 MR. BUSH: Objection.</p> <p>18 A. It -- it appears -- it appears that</p> <p>19 way, but the only thing that, for me, is</p> <p>20 missing is whether -- dosage size, differences</p> <p>21 between these particular drugs, and that's not</p> <p>22 clear to me.</p> <p>23 BY MR. DEROCHÉ:</p> <p>24 Q. I understand. The dosage size isn't</p>	<p style="text-align: right;">Page 348</p> <p>1 saw documentation indicating that there was a</p> <p>2 problem with the first order in a month being</p> <p>3 flagged --</p> <p>4 A. Right.</p> <p>5 Q. -- and then the subsequent order not</p> <p>6 being looked at --</p> <p>7 MR. BUSH: Objection.</p> <p>8 Q. -- in the SOM system, correct?</p> <p>9 A. Correct.</p> <p>10 BY MR. DEROCHÉ:</p> <p>11 Q. So it's possible that could be -- that</p> <p>12 could have happened here. You just don't know</p> <p>13 one way or the other?</p> <p>14 A. I just don't know whether it was</p> <p>15 flagged or not. I don't know.</p> <p>16 Q. If you look at -- let's move to</p> <p>17 12/19/2009. Let me know when you're there.</p> <p>18 I believe it's on page 5 of</p> <p>19 Exhibit 222.</p> <p>20 A. Got it.</p> <p>21 Q. Again, it looks like there were three</p> <p>22 prior orders that month that were placed by</p> <p>23 the Brookpark store to the Indianapolis for</p> <p>24 HCPs, correct?</p>
<p style="text-align: right;">Page 347</p> <p>1 on there, but the dosage units for each of</p> <p>2 those ten different orders is on there,</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And, again, they total 15,400 dosage</p> <p>6 units in this particular order?</p> <p>7 A. Correct.</p> <p>8 Q. And this, again, is based on the data</p> <p>9 we've been provided. The fourth time in this</p> <p>10 particular month that the Brookpark store is</p> <p>11 ordering hydrocodone from Indianapolis,</p> <p>12 correct?</p> <p>13 A. Appears to be so.</p> <p>14 Q. Do you know if this would be one of</p> <p>15 those situations where the first order was</p> <p>16 flagged for this particular store in that</p> <p>17 particular month and then this order would not</p> <p>18 have even been looked at?</p> <p>19 MR. BUSH: Objection.</p> <p>20 A. I wouldn't know. I wouldn't -- I'm</p> <p>21 not clear and sure that that would have been</p> <p>22 what the protocol would have been around that.</p> <p>23 BY MR. DEROCHÉ:</p> <p>24 Q. Well, you testified earlier and you</p>	<p style="text-align: right;">Page 349</p> <p>1 A. It appears that way, yes.</p> <p>2 Q. And, again, there are nine orders</p> <p>3 listed. And, again, the second grouping on</p> <p>4 223, I believe, is that date, correct?</p> <p>5 A. Yeah.</p> <p>6 Q. And, again, it shows different NDCs,</p> <p>7 different drugs that contain hydrocodone being</p> <p>8 ordered all at the same time by Brookpark,</p> <p>9 correct?</p> <p>10 A. It appears that way, yes.</p> <p>11 Q. And, again, it appears that they're</p> <p>12 spreading the order among these nine different</p> <p>13 drugs this time?</p> <p>14 A. Yes.</p> <p>15 Q. For a total of 13,700 pills being</p> <p>16 delivered?</p> <p>17 A. Yes.</p> <p>18 Q. Right?</p> <p>19 A. Yes, yeah.</p> <p>20 Q. Again, do you know if this is another</p> <p>21 situation where this grouping of orders</p> <p>22 wouldn't have been looked at in December of</p> <p>23 2009 under the SOM system because the first</p> <p>24 order was cleared?</p>



<p style="text-align: right;">Page 350</p> <p>1 A. Again, I have -- I really don't know  2 whether or not this would have been flagged or  3 not. I have no idea.  4 Q. It appears from the data that we have,  5 at least if you look again at 222, that the  6 numbers of drugs being ordered starting on  7 12/8, 12/14, 12/19 at Brookpark appear to be  8 escalating, starting with 6,800 pill dosage  9 units, moving to 9,700, then to 13,700; is  10 that correct?  11 A. Where is that -- where are you?  12 Q. Again, it's on page 5 of Exhibit 222.  13 Looking at 12/19/2009.  14 A. Got it. Okay.  15 Q. Leading up to that, there appear to be  16 escalating orders; is that correct?  17 A. Yes.  18 Q. Do you know why a store would do that?  19 A. I have no idea.  20 Q. I have one more date to look at.  21 That's on page 6 of Exhibit 222. Let me know  22 when you're there.  23 A. I'm there.  24 Q. If you look at the very top entry,</p>	<p style="text-align: right;">Page 352</p> <p>1 Q. So it's possible that these orders  2 would not even have been looked at?  3 MR. BUSH: Objection.  4 A. I have no way of knowing whether it  5 was looked at or not.  6 BY MR. DEROCHE:  7 Q. Do you know if Brookpark Road CVS was  8 considered a high volume store in terms of  9 distributing HCPs?  10 A. I don't. I don't know.  11 Q. When you designed the SOM system or  12 folks under you did, did they design a system  13 in 2009 that would compare a CVS store to  14 other stores to see how they -- how they  15 compared in terms of their ordering of  16 hydrocodone products?  17 A. I'm not aware of how that would have  18 been designed and accounted for.  19 Q. So you don't know if that was --  20 A. I don't know.  21 Q. Okay.  22 A. I don't know if that was part of it.  23 Q. Do you know if it was -- when the  24 system was retuned in 2011 by your consultant,</p>
<p style="text-align: right;">Page 351</p> <p>1 5/29/2010.  2 A. Yeah.  3 Q. Do you see that, sir?  4 A. Yes.  5 Q. Again, there appear to be eleven  6 different orders listed for a total of 13,000  7 dosage units of HCPs?  8 A. Yes.  9 Q. Again, we have it on 223 as well  10 indicating the different drugs that are being  11 combined to order these 13,000 HCPs for  12 Brookpark?  13 A. Yeah.  14 Q. Do you know if this, again, is a  15 situation where a store may be spreading its  16 orders among different drugs in order to avoid  17 detection by your SOM system?  18 A. I'm not aware if that was the case. I  19 don't know. I can't -- I can't -- I don't  20 really know.  21 Q. Again, this appears to be the fifth  22 time in the month that HCPs were ordered by  23 Brookpark from Indianapolis?  24 A. Yes.</p>	<p style="text-align: right;">Page 353</p> <p>1 do you know if that was something that they  2 designed the system so that you looked at how,  3 for instance, Brookpark would compare to the  4 average CVS in Cuyahoga county, Ohio?  5 A. Yeah, I don't recall. I don't recall.  6 Q. Do you know if that was ever a  7 consideration that was factored into the SOM  8 system that was used by CVS?  9 A. I don't -- I don't recall.  10 MR. DEROCHE: Let's mark this  11 one as 201.  12  13 (Exhibit No. 201 marked for  14 identification.)  15  16 BY MR. DEROCHE:  17 Q. Showing you what we've marked as  18 Exhibit 201. Again, this is a chart that was  19 developed with reference to the ARCOS data  20 that we've been given access to. And this,  21 again, in particular relates to the Brookpark  22 Road CVS in Cleveland, Ohio and in Cuyahoga  23 County and covers January 2006 through  24 December of 2008.</p>

Page 354

1 If you look at that, the bars -- the  
2 blue bars show the ordering on a monthly basis  
3 of HCPs by Brookpark. And the red line shows  
4 the average for all CVS stores in Cuyahoga  
5 County.  
6 Are you with me so far?  
7 A. Yes.  
8 Q. Do you have an understanding of why a  
9 store like this, this Brookpark Road store,  
10 would so far on a monthly basis exceed the  
11 average for the county in which it's located  
12 for your own stores?  
13 A. Yeah, I would not. I would not.  
14 Q. Is this something that you would like  
15 to have looked at on an ongoing basis if you  
16 were designing an SOM system to sort of put  
17 some -- to put stores that had high volumes of  
18 hydrocodone under a microscope?  
19 A. I would assume that this would be  
20 under the visibility of a tool like this,  
21 correct.  
22 Q. You would hope that it would be looked  
23 at?  
24 A. Yes.

Page 355

1 Q. But you haven't seen any evidence that  
2 it ever was?  
3 A. I don't -- I don't recall, and I don't  
4 recall seeing anything.  
5 Q. It looks like the average for CVS  
6 stores in Cuyahoga County is somewhere in  
7 between 5- and 10,000 dosage units a month,  
8 and you have Brookpark upwards of 35,000 some  
9 months.  
10 A. Yeah. Again, I'm not -- I'm not aware  
11 if that's an inaccurate number as an average.  
12 I just don't -- didn't have that type of  
13 visibility.  
14 Q. I understand. You're going to have to  
15 take my word for it that this is a calculated  
16 average, sort of hope that the computer does  
17 it right?  
18 A. Yeah, yeah.  
19 Q. But assuming that's correct --  
20 A. Yeah.  
21 Q. -- these numbers are right, does it  
22 seem strange that you would have a store with  
23 35,000-plus hydrocodone products shipped to it  
24 in a month, when the average somewhere in the

Page 356

1 6,000 range?  
2 A. It appears to be a high number. But,  
3 again, not knowing the detail of, you know,  
4 behind it, you know, but it does appear to be  
5 high from the way it's illustrated here.  
6 MR. DEROCHÉ: Off the record  
7 for one moment.  
8 THE VIDEOGRAPHER: The time is  
9 3:20 p.m., and we're off the record.  
10  
11 (Off the record from 3:20 p.m.  
12 to 3:21 p.m.)  
13  
14 THE VIDEOGRAPHER: The time is  
15 3:21 p.m., and we're on the record.  
16  
17 BY MR. DEROCHÉ:  
18 Q. Mr. Link, when the suspicious order  
19 monitoring system program came under your  
20 auspices in logistics in or around 2010 you  
21 said, I believe?  
22 A. No. It was more around the 2014 time  
23 frame or the 2012 time frame.  
24 Q. 2012?

Page 357

1 A. Yeah.  
2 Q. You had budget responsibility in that  
3 department, correct?  
4 A. Yes.  
5 Q. So you had decisions to make in terms  
6 of whether to spend money, where to spend  
7 it?  
8 A. Yeah.  
9 Q. Correct?  
10 A. Yes.  
11 Q. Prioritize spending?  
12 A. (Witness nodding.)  
13 Q. Is that correct?  
14 A. That's correct.  
15 Q. I'm going to show you what we've  
16 marked as Exhibit 213.  
17  
18 (Exhibit No. 213 marked for  
19 identification.)  
20  
21 BY MR. DEROCHÉ:  
22 Q. It's an e-mail on January 6, 2012 from  
23 Frank Devlin to you, correct?  
24 A. Correct.

Page 358

1 Q. And it deals in particular with a  
2 proposal from an outside consultant to work on  
3 the SOM program, correct?  
4 A. Correct.  
5 Q. And it involves a periodic statistical  
6 review of the system to make sure it's  
7 working, right?  
8 A. Correct.  
9 Q. Right?  
10 A. Correct.  
11 Q. And then an annual full retunement to  
12 make sure, again, that the SOM algorithm is  
13 doing what it's supposed to be doing, right?  
14 A. Correct.  
15 Q. Mr. Devlin sent you this proposal  
16 from, I believe it's the Buzzeo Group,  
17 correct?  
18 A. That's correct.  
19 Q. And he says "The total cost is about  
20 45K for both."  
21 Do you see that, sir?  
22 A. Yes, I do.  
23 Q. And he strongly suggested that CVS  
24 make that investment?

Page 359

1 A. Yeah.  
2 Q. Correct?  
3 A. Yes.  
4 Q. Again, attached to it is the proposal  
5 that came from the Buzzeo Group, correct?  
6 A. Correct.  
7 Q. If you go to the page 2 of the  
8 proposal.  
9 A. Yes.  
10 Q. Right at the top, it says "Once a  
11 year, it is recommended that the model be  
12 fully retuned so that the model co-efficient  
13 can be adjusted if necessary to assure optimal  
14 sensitivity."  
15 A. That's what it says, yeah.  
16 Q. When you got this, you just didn't  
17 ignore it, did you, or delete this e-mail?  
18 A. No. I mean, I'm sure I probably  
19 looked at it. And my understanding is that we  
20 were -- we basically funded the work that  
21 needed to be done here.  
22 It was managed -- it was managed by  
23 Frank Devlin, because he was the loss  
24 prevention, he was the responsible party.

Page 360

1 Our department, we funded the work to  
2 do that.  
3 Q. So you had to -- you had to bless the  
4 expenditure, so to speak?  
5 A. I, essentially, had to provide the  
6 funding to do this.  
7 Q. So you would have carefully reviewed  
8 this to decide whether or not it was something  
9 that you wanted to spend the money on?  
10 A. I wouldn't say we carefully reviewed,  
11 because, first of all, this expenditure,  
12 \$45,000 wasn't that great --  
13 Q. Small amount of money?  
14 A. It was a small amount relative to  
15 larger expenditures that we would have to be  
16 involved with. So this would not have gone  
17 through a very heavy review process from my  
18 end, I'm sure.  
19 Q. Well, you would have looked at to see  
20 what they were proposing to do, correct?  
21 A. Essentially, I would have looked at it  
22 and probably talked to Frank about it. I  
23 wouldn't gone into great detail because of the  
24 dollar amount.

Page 361

1 Q. If you look at the document, you see  
2 it talks about "a yearly annual adjustment  
3 that affords an opportunity for the attributes  
4 to be reconfirmed to ensure necessary  
5 information is collected so the SOM program is  
6 running properly."  
7 A. (Witness nodding.)  
8 Q. Correct?  
9 A. It appears to be that, yeah.  
10 Q. And this is in January -- on  
11 January 6, 2012 that this document is sent to  
12 Mr. Devlin?  
13 A. Yes.  
14 Q. And he forwards it to you the same  
15 day, correct?  
16 A. It appears that way.  
17 Q. So this would have called for a full  
18 retunement of the co-efficient on an annual  
19 basis, and it would have been done in 2012, in  
20 2013 and going forward?  
21 Correct?  
22 A. It appears that way, yes.  
23 Q. If CVS had decided to spend the  
24 \$45,000 to have this done?

<p style="text-align: right;">Page 362</p> <p>1 A. Correct.</p> <p>2 Q. Now, we have a retunement document</p> <p>3 that shows that it was done in 2011 by this</p> <p>4 same consultant. We don't have a retunement</p> <p>5 document for 2012, nor do we have one for</p> <p>6 2013.</p> <p>7 Is that because CVS decided not to</p> <p>8 spend the money on the consultant to actually</p> <p>9 have it done?</p> <p>10 A. I am not sure. I am not sure what</p> <p>11 transpired from that point on.</p> <p>12 Q. Do you know why a retunement document</p> <p>13 that was recommended by the consultant who</p> <p>14 wrote the algorithm would not have been done?</p> <p>15 A. I don't. I don't.</p> <p>16 Q. They appear to be indicating that if</p> <p>17 you don't do this, the system may not be</p> <p>18 working properly because the coefficients are</p> <p>19 based on historical average and they need to</p> <p>20 be adjusted from time to time based on current</p> <p>21 information, right?</p> <p>22 A. Correct.</p> <p>23 Q. If that's not done, the algorithm</p> <p>24 itself may not be operating properly, correct?</p>	<p style="text-align: right;">Page 364</p> <p>1 CERTIFICATION</p> <p>2 I, DARLENE M. COPPOLA, a Notary Public, do hereby</p> <p>3 certify that RONALD LINK, after having satisfactorily</p> <p>4 identifying himself, came before me on the 11th day of</p> <p>5 December, 2018 in Providence, Rhode Island, and was by me</p> <p>6 duly sworn to testify to the truth and nothing but the</p> <p>7 truth as to his knowledge touching and concerning the</p> <p>8 matters in controversy in this cause; that he was</p> <p>9 thereupon examined upon her oath and said examination</p> <p>10 reduced to writing by me; and that the statement is a true</p> <p>11 record of the testimony given by the witness, to the best</p> <p>12 of my knowledge and ability.</p> <p>13 I further certify that I am not a relative or</p> <p>14 employee of counsel/attorney for any of the parties, nor a</p> <p>15 relative or employee of such parties, nor am I financially</p> <p>16 interested in the outcome of the action.</p> <p>17 WITNESS MY HAND THIS 14th day of December, 2018.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 DARLENE M. COPPOLA My commission expires:</p> <p>22 NOTARY PUBLIC November 11, 2022</p> <p>23 REGISTERED MERIT REPORTER</p> <p>24 CERTIFIED REALTIME REPORTER</p>
<p style="text-align: right;">Page 363</p> <p>1 A. Potentially, yeah.</p> <p>2 Q. And you've never seen a retunement</p> <p>3 that was done in 2012 or 2013?</p> <p>4 A. I don't recall.</p> <p>5 MR. DEROCHE: I have nothing</p> <p>6 further.</p> <p>7 MR. BAKER: That's it.</p> <p>8 MR. BUSH: People on the phone</p> <p>9 don't have anything? I guess, give me one</p> <p>10 second.</p> <p>11 Off the record.</p> <p>12 THE VIDEOGRAPHER: The time is</p> <p>13 3:26 p.m., and we're off the record.</p> <p>14</p> <p>15 (Off the record at 3:26 p.m.)</p> <p>16</p> <p>17 THE VIDEOGRAPHER: The time is</p> <p>18 3:27 p.m.</p> <p>19 This deposition has concluded, and we</p> <p>20 are off the record.</p> <p>21</p> <p>22 (Deposition concluded at 3:27 p.m.)</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 365</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE NORTHERN DISTRICT OF OHIO</p> <p>3 EASTERN DIVISION</p> <p>4</p> <p>5</p> <p>6 *****</p> <p>7 IN RE:</p> <p>8 NATIONAL PRESCRIPTION OPIATE</p> <p>9 LITIGATION</p> <p>10</p> <p>11 This document relates to:</p> <p>12</p> <p>13 All cases</p> <p>14</p> <p>15 *****</p> <p>16</p> <p>17 I, RONALD LINK, say that I have read the foregoing</p> <p>18 deposition and hereby declare under penalty of perjury the</p> <p>19 foregoing is true and correct:</p> <p>20 (as prepared) (as corrected on errata.)</p> <p>21 Executed this _____ day of _____, 20____,</p> <p>22 at _____, _____.</p> <p>23</p> <p>24 _____</p> <p>RONALD LINK</p>

Page 366

1	CORRECTION PAGE
2	DEPONENT: RONALD LINK
3	DATE TAKEN: DECEMBER 11, 2018
4	CASE: NATIONAL PRESCRIPTION OPIATE LITIGATION
5	*****
6	PAGE / LINE / SHOULD READ/REASON
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